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IN THE

Supreme Court of the United States

OCTOBER TERM, 1973

No. 73-821

EDWARD V. HANRAHAN, RICHARD S. JALOVEC, JAMES MELTREGER, and SHELDON SOROSKY,

Petitioners,

VS.

IBERIA HAMPTON, Administratrix on behalf of the Estate of Fred A. Hampton, Deceased, et al.,

Respondents.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

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Respondents.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Petitioners, Edward V. Hanrahan, former State's Attorney of Cook County, Illinois, Richard S. Jalovec, and Sheldon Sorosky, Former Assistant State's Attorneys of Cook County, Illinois, and James Meltreger, Assistant State's Attorney of Cook County, Illinois, respectfully pray that a writ of certiorari issue to review the judgment and opinion of the United States Court of Appeals for the Seventh Circuit entered in this proceeding on August 24, 1973, reversing a ruling of the United States District Court for the Northern District of Illinois, which had dismissed several complaints against them.

Petitioners respectfully submit this petition in accordance with Rules 21, 22 and 23 of the Rules of the Supreme Court of the United States to demonstrate that the Supreme Court of the United States has jurisdiction of this appeal and that substantial federal questions are presented.

OPINIONS BELOW.

The decision of the United States Court of Appeals for the Seventh Circuit which is the subject of this appeal has not yet been reported. A complete copy of this decision in slip opinion form is attached to this petition as Appendix "A" pursuant to Supreme Court Rule 23(i).

The decision by the United States District Court in this same cause is reported at 339 F. Supp. 695 (N.D. Ill. 1972) and is attached as Appendix "B".

JURISDICTION.

The judgment of the United States Court of Appeals for the Seventh Circuit was entered on August 24, 1973 and this petition for certiorari was filed within ninety (90) days of that date.

This Court's jurisdiction is invoked under 28 U.S.C. §1254(i).

The jurisdiction of the District Court was invoked under Amendments I, IV, V, VIII, IX, XIII and XIV of the United States Constitution, as well as under 42 U.S.C. §§ 1981, 1982, 1983, 1985, 1986 and 1988 and 28 U.S.C. §§ 1331 and 1343. Diversity jurisdiction was invoked by plaintiff Verlina Brewer as a resident of the State of Michigan.

STATUTES INVOLVED.

42 U.S.C. §1981

Equal rights under the law

All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.

42 U.S.C. §1983

Civil action for deprivation of rights

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

42 U.S.C. §1985

Depriving persons of rights or privileges

(3) If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons

within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a Member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages, occasioned by such injury or deprivation, against any one or more of the conspirators.

ISSUES PRESENTED.

Whether the decision of the Seventh Circuit that the planning of a "Raid" was beyond the scope of the quasi-judicial immunity of a prosecutor so as to require him to submit to trial on a Civil Rights Complaint;

Whether said decision is in conflict with the decisions of other Circuits, merely requiring a final adjudication of the basic issue of the scope and extent of prosecutorial immunity by this Court;

Whether the ultimate impact of the Seventh Circuit's opinion is the total elimination of prosecutorial immunity;

Whether substantial public policy considerations require a determination of the scope of prosecutorial immunity.

STATEMENT OF THE CASE.

This case arises from the events surrounding the execution of a search warrant on December 4, 1969 by certain Chicago policemen (who were assigned to the office of the State's Attorney of Cook County, Illinois.) at an apartment occupied by members of the Black Panther Party. In the ensuing activity following entry to the apartment located at 2337 West Monroe Street in Chicago, Illinois, Fred Hampton and Mark Clark were killed and Verlina Brewer, Ronald Satchel, Blair Anderson and Brenda Harris (all inhabitants of the apartment at the time of the entry of the police) were wounded.

Four separate complaints were filed and consolidated by the District Court on October 22, 1971. All of these suits were civil actions for damages alleging violations of the Federal Civil Rights Act (42 U.S.C. §§1981, 1983, and 1985(3)).

Those who were sued included seven of the fourteen Chicago police officers who participated in the raid; certain police officers who were assigned to the Internal Inspections Division and the Crime Laboratory of the Chicago Police Department; the Mayor of the City of Chicago; the Superintendent of the Chicago Police Department; petitioner Hanrahan as State's Attorney of Cook County; petitioners Jalovec, Sorosky and Meltreger as Assistant State's Attorneys of Cook County; the City of Chicago as employer of the Chicago policemen; and the County of Cook as employer of State's Attorney Han-

rahan and his three assistants who were named as defendants.

Allegations made by the plaintiffs included the claim that the police illegally entered their apartment and assaulted them with deadly weapons. With specific reference to petitioners Hanrahan and Jalovec it was alleged that they planned the "raid" and agreed to the use of deadly force against Hampton and the other located in said apartment. Furthermore, it was alleged that all the defendants engaged in a conspiracy to cause the false arrest and imprisonment and the commencement of the unfounded prosecution of the surviving plaintiffs. Cook County and the City of Chicago were joined as defendants under the doctrine of *respondeat superior.*

On February 3, 1972, United States District Court Judge Joseph Sam Perry granted defendants' motions to dismiss as to all of the actions against all of the plaintiffs except those 7 police officers who were involved in the execution of the search warrant at the Black Panther apartment. (Judge Perry's memorandum opinion is herein included as Appendix "B".)

This decision was reversed on most issues by the United States Court of Appeals for the Seventh Circuit (See Appendix "A"). With specific reference to Hanrahan and Jalovec the Court held that "at the very least they (the complaints) charge that Hanrahan and Jalovec planned a raid in order to obtain evidence of criminal activity" which was beyond the scope of their quasi-judicial or prosecutorial immunity. Furthermore, the Court ruled that the charges of conspiracy to cause an illegal arrest and imprisonment against Hanrahan and Jalovec were

sufficient under both §1983 and §1985(3) to withstand a motion to dismiss.

The Court also reversed the dismissal of conspiracy charges which were also made against petitioners Sorosky and Meltreger, based upon the allegation that they, along with the defendant policemen from the Internal Inspections Division and the Crime Laboratory, conspired to conceal the fact that there was no basis for arresting, holding or prosecuting the plaintiffs. The specific allegation relating to Sorosky and Meltreger was that they helped to edit the questions and answers prepared for the officers who had participated in the search in order to maintain consistent testimony. This alleged conduct was seen to exceed the scope of their quasi-judicial immunity as prosecutors.

The Court further ruled that the Civil Rights claims against petitioner Cook County and the City of Chicago were properly dismissed because these defendants were not "persons" within the meaning of the Civil Rights Act. However, the Court did uphold the jurisdiction of the District Court over the state law claims in common law tort of assault and battery, false imprisonment and malicious prosecution of plaintiff Brewer because of the existence of diversity of citizenship. In so ruling, the Court rejected the contention that the Illinois Local Governmental and Governmental Employees Tort Immunity Act (Ill.Rev.Stats. ch. 85, §1-101 *et seq.*) immunizes municipal corporations from liability if their agents are guilty of wilful and wanton misconduct.

ARGUMENT.

I.

THE DECISION OF THE COURT OF APPEALS EVIDENCES A CONFLICT AMONG THE CIRCUITS AS TO THE SCOPE OF PROSECUTORIAL IMMUNITY.

Petitioners Hanrahan and Jalovec were found by the Seventh Circuit to have acted outside the scope of their quasi-judicial (or prosecutorial) immunity as afforded under the 1871 Civil Rights Act, 42 U.S.C. §1981 *et seq.* Specifically, the action complained of is that the above petitioners planned, with police officers, a raid conducted "under color of state search warrant." The Court found that participation in evidence gathering activities was investigatory in nature, and as such, was not clothed with immunity.

Although this Court has clearly held that Congress, through the enactment of the 1871 Civil Rights Act, 42 U.S.C. §1981 *et seq.*, did not intend to abolish all common law immunities, *Pierson* v. *Ray*, 386 U.S. 547, 554-555, 87 S.Ct. 1213, 1218 (1967), the question of the scope of prosecutorial immunity has not been ruled upon in this forum. The various Courts of Appeal have, however, filled this void with decisions which are in conflict with one another.

The Third Circuit, for instance, has formulated a "jurisdictional" test whereby a prosecutor enjoys official immunity except where it is shown that the alleged conduct is clearly outside the scope of his jurisdiction. *Moore* v. *Buck*, 443 F.2d 25, 26 (3rd Cir. 1971), *Bauers*

v. *Heisel,* 361 F.2d 581, 590 (3rd Cir. 1966), cert. denied 386 U.S. 1021, 87 S.Ct. 1367 (1967).[1] It should be noted that the jurisdictional test is consistent with this Court's decision in *Bradley* v. *Fisher,* 80 U.S. (13 Wall.) 335, 351 (1871) wherein it was held that a judge is immune from civil liability except when acting in a clear absence of all jurisdiction over the subject matter. Moreover, the consistency remains under this Court's decisions dealing with immunity under the 1871 Civil Rights Act. In *Pierson* v. *Ray,* 386 U.S. 547, 554, 87 S. Ct. 1213, 1218 (1967), this Court ruled that §1983 did not abolish wholesale all common law immunities and that the immunity pronounced in *Bradley* v. *Fisher, supra,* would remain intact. And in *Tenney* v. *Brandhove,* 341 U.S. 367, 378, 71 S.Ct. 783, 789 (1971), this Court held that members of an investigative legislative committee are immune from civil liability under §1983 when the committee acts within its province and has not exceeded the bounds of legislative power.

Similarly, the Tenth Circuit has ruled that a prosecutor enjoys immunity, as does a judge, when "performing his official duties," *Kostal* v. *Stoner,* 292 F.2d 492, 493 (10th Cir. 1961), a standard akin to the jurisdictional test of the Third Circuit.

The Fifth Circuit, however, has adopted a slightly stricter twofold standard, granting immunity unless it is demonstrated that the prosecutor acted both outside the scope of his jurisdiction and without authorization of law. *Madison* v. *Purdy,* 410 F.2d 99, 101 (5th Cir. 1969), *Lewis* v. *Brautigam,* 227 F.2d 124 (5th Cir. 1955).

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[1] This Court, in *Pierson,* cited the holding in *Bauers* v. *Heisel, supra,* with approval. 87 S.Ct. at 1218 n.9.

The most restrictive test is that offered by Seventh Circuit in the instant case, where the Court, relying on its earlier decision in *Littleton* v. *Berbling*, 468 F.2d 389 (7th Cir. 1972), *cert. granted*, 409 U.S. 1053 (1973), ruled that prosecutorial conduct described as quasi-judicial would warrant immunity, while investigatory activities would not. This standard was originally propounded by the Ninth Circuit in *Robichaud* v. *Ronan*, 351 F.2d 533 (9th Cir. 1965), wherein the court noted that where prosecutors committed or authoritatively directed the commission of acts which are ordinarily related to police activity, as opposed to judicial activity, the prosecutor would lose his immunity.

It is noteworthy that the instant case is the first case in which a Circuit Court has specifically found a prosecutor's activity to be outside the scope of his immunity because it was investigatory in nature. In *Robichaud*, the Ninth Circuit directed the trial court to make a determination as to the nature of the acts complained of. 351 F.2d at 537. Similarly, in *Littleton*, the Seventh Circuit remanded, directing the trial court to reconsider the immunity issue, by way of an amended pleading and in light of the quasi-judicial/investigative test. 468 F.2d at 411.

It is abundantly clear that a substantial conflict does exist as to the scope of prosecutorial immunity under the 1871 Civil Rights Act. This Court has felt compelled to grant a writ of certiorari for the purpose of resolving conflicts between circuits. *Mitchell* v. *Kentucky Finance Co.*, 59 U.S. 290, 291, 79 S.Ct. 756 (1959); *F.T.C.* v. *Flathill Products, Inc.*, 389 U.S. 179, 181, 88 S.Ct. 401 (1967). The import and magnitude of the conflict is evident, and

the issuance of a writ is the only manner in which the present conflict can be resolved.

II.

THE DECISION OF THE COURT BELOW HAS ELIMINATED, IN TOTO, PROSECUTORIAL IMMUNITY UNDER THE 1871 CIVIL RIGHTS ACT.

Two of the complaints in the instant case additionally allege that petitioners Hanrahan, Jalovec, Meltreger, and Sorosky (the State's Attorney and Assistant State's Attorneys of Cook County, respectively) conspired, with others, for the purposes of falsely arresting, imprisoning, and initiating an unfounded prosecution against the plaintiffs.[1]

Although the Seventh Circuit noted that the allegations as against Sorosky and Meltreger were "somewhat tenuous", (Appendix at p. 9a) the court, without passing upon the question of immunity ruled that all must stand trial.

The thrust of the Complaints can only be that the petitioners conspired to initiate an unfounded prosecution, for arrest and imprisonment are mere incidents of

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[1] Additionally two complaints alleged that petitioners Jalovec, Sorosky, and Meltreger revised, and approved the questions to be asked various policemen and advised the policemen as to the proper answers to be given. (Johnson Complaint, paragraph 69 n and o; Brewer Complaint, paragraph 62 m.) Although there was no allegation that the suggested answers were false, the court below both characterized the activity as "the deliberate preparation of perjured testimony and concluded that the activity exceeded the scope of their quasi-judicial immunity." (Abstract A.P.A. n.9). This was a clear misstatement of the allegations as set forth in plaintiff's complaints and as such the determination that the prosecutor's actions herein described exceeded the scope of their immunity was erroneous.

either a legal or unfounded prosecution. Yet, it cannot be denied that prosecution is perhaps the most fundamental of all the duties of a prosecutor, *Kostal* v. *Stoner*, 292 F. 2d 492, 493 (10th Cir. 1961), and as such, would clearly fall within his quasi-judicial immunity. Thus, to state a cause of action, plaintiffs should have alleged an action in furtherance of the prosecution which falls outside the cloak of immunity. Plaintiffs, however, made no such allegation.

The Seventh Circuit impliedly recognized this requirement in *Cawley* v. *Warren*, 216 F. 2d 74 (7th Cir. 1954) where that Court granted immunity to a state's attorney and his assistant where it had been alleged that they had conspired, with others, with knowledge that the plaintiff had committed no violation of the law, to deprive the plaintiff of Civil rights by procuring indictments without competent witnesses' evidence, thereby causing plaintiff's arraignment and incarceration. The court in *Cawley* relied, at p. 75, on this Court's decision in *Bradley* v. *Fisher*, 80 U.S. (13 Wall.) 335 (1871) wherein it was stated:

> "For it is a general principal of the highest importance to the proper administration of justice that a judicial officer, in exercising the authority vested in him, shall be free to act upon his own convictions, without apprehension of personal consequence to himself." 80 U.S. (13 Wall.) at 347.

Moreover, the *Cawley* court further noted that "as a matter of public policy, such an injured person is without relief in a civil proceeding." 216 F.2d at 77.

Nevertheless, the Seventh Circuit has abruptly and completely changed this public policy. Henceforth, in the

Seventh Circuit, prosecutors will be forced to defend themselves each time a defendant in a criminal case feels aggrieved by the action taken against him and alleges such action to be part of a conspiracy (which could conceivably include most cases where charges have either been dropped or the defendant acquitted). Such a state of affairs will do little to foster the freedom of the prosecutor to act upon his own convictions (*Bradley* v. *Fisher, supra*), nor will the opinion of the Court of Appeals encourage the desire for vigorous prosecution sorely needed today in many areas of this nation.

To hold, as did the court below, that an unfounded prosecution will leave the prosecutor without immunity for his acts, will thus eliminate, *in toto*, both immunity of the 1871 Civil Rights Act, and the unfettered discretion which prosecutorial immunity had been formulated to advance.

III.

SUBSTANTIAL PUBLIC POLICY CONSIDERATIONS REQUIRE A DETERMINATION BY THIS COURT AS TO THE SCOPE OF PROSECUTORIAL IMMUNITY UNDER THE 1871 CIVIL RIGHTS ACT.

Among the various arguments generally advanced in support of immunity are: (1) the theory that the official owes a duty to the public and not to the individual; (2) the danger of influencing public officials by threat of a lawsuit; (3) the drain on the valuable time of the official caused by insubstantial suits; and (4) the unfairness of subjecting officials to liability for the acts of their subordinates. *Robichaud* v. *Ronan*, 351 F.2d 533, 535 (9th Cir. 1965); Comment. 66 Harv. L. Rev. 1285, 1295, n.4 (1953). The thrust of all these arguments is singular: that

the threat of civil liability might deter a prosecutor from performing his duties.

That participation in the investigation of crimes has traditionally been among the duties of the prosecutor cannot be questioned. See, Wright, *Duties of a Prosecutor*, 35 Conn. B.J. 293, 296 (1959). In fact, the District Court in the instant case noted that there was an absence of sufficient allegations that the defendants had "engaged in investigatory conduct other than that necessary to carrying out their duties in the judicial function." *Hampton v. City of Chicago*, 339 F. Supp. 695, 699 (N.D.Ill. 1972). Among the traditional duties that are investigatory in nature are: (1) participation in grand jury investigations, (2) gathering evidence in preparation for trial and seeking assistance from police in this regard; (3) advising police as to both the legality of a proposed investigation and the proper scope thereof; (4) determining the necessity, scope and legality of seeking a search warrant; and (5) the approval of the adequacy of evidence prior to seeking a search warrant in all felony cases.

However, limiting the immunity of prosecutors to those activities which are quasi-judicial in nature will have the effect of severely circumscribing the freedom of the prosecutor to act in the above mentioned situations. In the instant case, for instance, petitioners Hanrahan and Jalovec have been held to have lost their immunity for acts described by the Seventh Circuit as having "planned a raid in order to obtain evidence of criminal activity." Henceforth, prosecutors in the Seventh Circuit and similarly in the Ninth Circuit might refuse to advise or assist police authorities, and will undoubtedly hesitate to initiate action and direct additional investigations.

It has not been questioned that such activities are traditional actions of a prosecutor. And indeed, such investigatory actions are necessary, for a prosecutor is expected to have weighed all facets of a case prior to bringing a charge. Yet again, under the view of the Seventh and Ninth Circuits, while the prosecutor is authorized and encouraged to perform all his duties conscientiously, he will be afforded immunity only when performing a select few. To artificially compartmentalize the activities is indeed unrealistic in practice, *Gaito* v. *Strauss*, 249 F. Supp., 923, 931 (W.D.Penn. 1966) aff'd. on other grounds 368 F.2d 787 (3rd Cir. 1966) (where the District Court expressly rejected the *Robichaud* quasi-judicial/investigative test) and in theory.

Moreover, the difficulty of utilizing the quasi-judicial/investigative test is compounded by the fact that the prosecutor must now determine, prior to acting, whether his action will be considered quasi-judicial or investigative. The hesitancy, delay, and perhaps outright refusal to act cannot be said to advance an effective system of law enforcement.

There can be no question that the divergence of opinions among the circuits is an issue which requires an ultimate determination by this Court. If prosecutors, having undertaken investigatory activities, are to lose their immunity from civil suit, let that be the law in all the land, not just the law in the Seventh and Ninth Circuits. And conversely, if prosecutors are to retain immunity for all actions performed within the scope of their jurisdiction, as this Court has held regarding judges and legislators, the time is ripe to alleviate this added burden from the prosecutors in the aforementioned circuits.

The public policy considerations advanced above are equally applicable as regards the Seventh Circuit's apparent elimination of immunity in situations where an unfounded prosecution has been alleged. To allow an aggrieved defendant in a criminal case to force a prosecutor to defend not only on the basis of the prosecution itself, but, in addition, to defend all incidents of that prosecution—i.e. arrest and incarceration—neither advances the freedom of discretion necessary in the performance of his prosecutorial duties, nor comports with the goal of advancing the effective administration of justice.

The prosecutor must, in the performance of his duties, serve the public interest—not his own. To require the prosecutor to act at his own peril, to evaluate the propensity of a given defendant to challenge his decision in a civil trial, or to hesitate or refuse to act because of potential civil liability, is clearly a derogation of his public duties. Yet, this is precisely the effect of the broad sweep of the decision below.

CONCLUSION.

The positions of the Petitioners herein present issues not only fundamental to the further conduct of this cause, but, in addition, involve questions of striking public importance. There now exists both a conflict among the Circuits as to the manner in which the scope of prosecutorial immunity is to be tested and an apparent conflict as to whether prosecutors will be immune from suits alleging unfounded prosecutions. Petitioners respectfully submit that the restrictive construction of prosecutorial immunity taken by the Seventh Circuit is both erroneous and an unreasonable limitation upon prosecutorial discretion.

For these reasons, Petitioners submit that a writ of certiorari issue to review the judgment and opinion of the United States Court of Appeals for the Seventh Circuit.

Respectfully submitted,

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November 23, 1973

CORRECTED

In the

United States Court of Appeals

For the Seventh Circuit

SEPTEMBER TERM, 1972 — APRIL SESSION, 1973

No. 72-1277
IBERIA HAMPTON, Administratrix, etc.
VERLINA BREWER, etc., and
DEBORAH JOHNSON, et al.,
Plaintiffs-Appellants,
v.
THE CITY OF CHICAGO, COOK COUNTY, ILLINOIS and EDWARD V. HANRAHAN, et al.
Defendants-Appellees.
No. 72-1300
FANNIE MAE CLARK, Administratrix of the Estate of Mark Clark, Deceased,
Plaintiff-Appellant,
v.
THE CITY OF CHICAGO, EDWARD V. HANRAHAN, et al.,
Defendants-Appellees.

Appeals from the United States District Court for the Northern District of Illinois, Eastern Division.
70 C 1384
70 C 3026
70 C 3029
70 C 2371
J. SAM PERRY, *Judge.*

ARGUED APRIL 6, 1973 — DECIDED AUGUST 24, 1973

Before FAIRCHILD, STEVENS and SPRECHER, *Circuit Judges.*

STEVENS, *Circuit Judge.* Plaintiffs allege that 14 Chicago police officers raided an apartment at 2337 West Monroe Street at 4:15 A.M. on December 4, 1969, for the purpose of killing Mark Clark and Fred Hampton and

punishing seven other residents of the apartment because they were black and had exercised their First Amendment rights as members of the Black Panther Party. They also allege that 15 other defendants conspired to imprison and prosecute seven surviving occupants without any legal basis whatsoever. In four separate complaints, containing a total of 49 counts, plaintiffs claim actual and punitive damages under the Federal Civil Rights Act and Illinois law. Accepting the allegations as true, as the law requires, the district court denied motions to dismiss filed by the fourteen participating officers,[1] but entered a final judgment dismissing all claims against the remaining 15 defendants. Plaintiffs appeal from that judgment.[2]

The appellees include: (1) The State's Attorney (Hanrahan) and three Assistant State's Attorneys (Jalovec, Sorosky and Meltreger); (2) seven police officers who participated in certain investigations after the raid;[3] (3)

[1] With respect to the motions to strike and dismiss of defendants James Davis, Daniel Groth, Edward Carmody, John Ciszewski, Ray Broderick, George Jones, John Marusich, Lynwood Harris, Fred Howard, William Corbett, William Kelly, Philip Joseph, Joseph Gorman and Robert Hughes, the district court stated: "These police officers of the City of Chicago were detailed and/or on detached service with the Office of the Cook County State's Attorney as State's Attorney's police or detail. This group of policemen is charged in all four of the consolidated complaints with actual on-the-scene participation in the raid on the Monroe Street apartment occupied by Fred A. Hampton, Mark Clark, Verlina Brewer, Deborah Johnson, Ronald Satchel, Harold Bell, Blair Anderson, Brenda Harris and Louis Truelock. Plaintiffs charge illegal and forced entry of the apartment and the unjustifiable use of excessive and deadly force by these officers acting under color of law. In the various complaints these policemen are charged with killing Fred Hampton in the presence of his fiance, Deborah Johnson, with killing Mark Clark, with wounding plaintiffs Satchel, Anderson and Harris, and with physically and verbally abusing and illegally arresting plaintiffs Brewer, Johnson, Satchel, Bell, Anderson, Harris and Truelock. They are also charged with conspiracy and conspiracy in connection with alleged and malicious prosecutions [sic]. These allegations and others are set forth in detail in the various complaints. As to certain of the allegations made in the complaints against these defendants, the court is of the opinion that there are questions of fact and of law that cannot be resolved except upon trial." 339 F.Supp. 695, 700-701 (N.D. Ill. 1972).

[2] The district court consolidated the four cases. His order of dismissal directed the plaintiffs to file amended complaints against the 14 participating officers and expressly determined that there was no just reason for delay in entering final judgment in favor of the 15 appellees; the order is therefore appealable. The appeals have been consolidated in this court.

[3] John Mulchrone, Harry Ervanian, John Meade, Robert Kukowinski, David Purtell, Charles Koludrovic and John Sadunas.

the Mayor of Chicago (Daley) and the Superintendent of Police (Conlisk); and (4) the City of Chicago and the County of Cook, municipal corporations. The district court held that the prosecutors were protected by quasi-judicial immunity, that the allegations against the appellee police officers, Mayor Daley and Superintendent Conlisk were insufficient, and that the City and County were not "persons" within the meaning of the federal civil rights statutes and are immune from liability on a respondeat superior theory. In three of the cases jurisdiction stems from the federal questions which are raised; in the fourth, plaintiff Brewer is a citizen of Michigan and therefore diversity jurisdiction is also asserted.

For the purposes of this appeal we must assume that all of plaintiffs' allegations are true. The test of sufficiency is whether ". . . it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim that would entitle him to relief." *Conley* v. *Gibson*, 355 U.S. 41, 45-46.[4] Since different issues are raised with respect to different appellees, we consider the relevant allegations separately.

In view of the large number of claims asserted, and the fact that the district court order requires all pleadings to be amended, we limit our review, with respect to each appellee, to the question whether *any* sufficient claim for relief has been alleged. Since reversal as to any appellee on any theory renders the district court's other rulings respecting that appellee subject to revision at any time prior to the conclusion of the entire trial, see Rule 54(b) Fed. R. Civ. P., it would be inappropriate to discuss the sufficiency of claims which may be amended and which need not be passed upon in order to determine this appeal.

1. *Hanrahan and Jalovec.* The Hampton complaint alleges that "under color of state search warrant" 14 police officers illegally entered the residence of Fred

[4] Despite the City's suggestion to the contrary, we must ignore what it describes as "several contradictory facts made a matter of public record" in the state criminal prosecution of defendant Hanrahan; cited at page four of the City's brief as *People* v. *Hanrahan*, Circ. Ct. of Cook County No. 71 Cr. 1791. A finding in favor of defendants in that case is clearly no bar to this action since none of these plaintiffs is a party to that judgment.

Hampton and, without provocation, fired over 90 bullets from machineguns, pistols, shotguns and carbines into the general living quarters, critically wounding Fred Hampton, who was otherwise physically abused and ultimately died. In addition, the officers allegedly stole or damaged Hampton's personal property and destroyed evidence of their illegal conduct. These alleged acts were "perpetrated upon Fred Hampton, Chairman of the Illinois Black Panther Party, because of his beliefs, thoughts, words and associations" (¶ 21) in order "to create fear and terror in the Black Community" (¶ 23).

Hampton's administratrix alleges that Hanrahan and Jalovec, with the 14 officers, planned the raid and agreed to use excessive and deadly force against Hampton and others in his residence. Their alleged purpose was to deprive him of his constitutional rights because of his race and his political beliefs.

The Clark complaint tersely alleges that the officers shot and killed Mark Clark without any authority of law and thereby denied him due process of law by imposing summary punishment of death upon him. It alleges that defendant Hanrahan, or his Assistant State's Attorney, did "with specific intent, plan and execute the acts as alleged herein" (¶ 16); further, that these acts were the result of a tacit understanding "to treat the deceased as they did because he was Black."

The Johnson and Brewer complaints describe the raid in greater detail. They allege that four of the plaintiffs[a] were wounded by gun fire and that all of them were physically and verbally abused and illegally arrested. Again the complaints allege that Hanrahan and Jalovec, as well as the 14 officers, "wilfully, maliciously, and with specific intent planned and executed the acts" recited in the complaints. These complaints also include a number of counts alleging state law claims of false imprisonment and malicious prosecution; these charges also involve defendants Hanrahan and Jalovec but will be discussed in Part 2 of this opinion.

[a] Satchel, Anderson, Harris and Brewer.

As the district court correctly held, the allegations are plainly sufficient to state claims against the participating officers under the Federal Civil Rights Act, 42 U.S.C. §§ 1983 and 1985(3). It is equally clear that the allegations respecting the planning and execution of the raid by Hanrahan and Jalovec are sufficient unless their prosecutorial offices gave them immunity.

The district court erroneously relied on the Illinois Tort Immunity Act.* Conduct by persons acting under color of state law which is wrongful under 42 U.S.C. § 1983 or § 1985(3) cannot be immunized by state law. A construction of the federal statute which permitted a state immunity defense to have controlling effect would transmute a basic guarantee into an illusory promise; and the supremacy clause of the Constitution insures that the proper construction may be enforced. See *McLaughlin* v. *Tilendis*, 398 F.2d 287, 290 (7th Cir. 1968). The immunity claim raises a question of federal law.

The claim of immunity must not be confused with the defense of good faith. That defense is available to a person who, either because of his position or because of his conduct, is not immune from suit. See *Pierson* v. *Ray*, 386 U.S. 547, 557. In those situations in which immunity is properly claimed, the action is defeated at the outset. An essential purpose of the doctrine is to give the officer freedom to exercise his discretion and to perform his official duties without fear that his conduct will be called into question at an evidentiary hearing or subject him to personal liability.

The source of the immunity is found in common law doctrine recognized in federal judicial decisions. The Supreme Court has squarely held that the broad language of the Civil Rights Act of 1871 did not abolish this protection for legislators "acting in a field where legislators traditionally have power to act," *Tenney* v. *Brandhove*, 341 U.S. 367, 379, or for judges for acts "within their judicial jurisdiction . . . even when the judge is accused of acting maliciously and corruptly. . . ." *Pierson* v. *Ray*,

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*Ill. Rev. Stat. 1969, Ch. 85, §§ 1-101, *et seq.*

386 U.S. 547, 554.[7] With respect to legislators and judges, it is clear that the doctrine may not be circumvented by allegations of improper motive; rather, the availability of immunity depends on the character of the conduct under attack.

The scope of immunity enjoyed by a state prosecutor has not yet been defined by the Supreme Court. We are nevertheless confident that at least some of his traditional functions must be immune from suit under § 1983. See *Littleton* v. *Berbling*, 468 F.2d 389, and cases cited at page 409 (7th Cir. 1972). In view of the overriding importance of federal law, the area of his protection cannot be either limited or expanded by a state's statutory definition of his authority or responsibility; we therefore do not pause to review the respective parties' analyses of the relevant Illinois statute.[8] Nor do we attach any weight in analyzing the immunity question to the numerous ways in which the pleadings characterize the motivation of the prosecutor as wrongful — ranging from "sadistic" or "racial" to the more familiar "malicious" or "discriminatory." The immunity doctrine would be of little value if such characterization of his motive could force the prosecutor to stand trial.

Prosecutorial conduct which traditionally has been treated as immune is often described as "quasi-judicial" as opposed to investigatory activities normally performed by laymen, such as police officers. Judge Ely's exposition

[7] "Few doctrines were more solidly established at common law than the immunity of judges from liability for damages for acts committed within their judicial jurisdiction, as this Court recognized when it adopted the doctrine, in *Bradley* v. *Fisher*, 13 Wall. 335 (1872). This immunity applies even when the judge is accused of acting maliciously and corruptly, and it 'is not for the protection or benefit of a malicious or corrupt judge, but for the benefit of the public, whose interest it is that the judges should be at liberty to exercise their functions with independence and without fear of consequences.' (Scott v. Stansfield, L. R. 3 Ex 220, 223 (1868), quoted in *Bradley* v. *Fisher*, *supra*, 349, note, at 350). It is a judge's duty to decide all cases within his jurisdiction that are brought before him, including controversial cases that arouse the most intense feelings in the litigants. His errors may be corrected on appeal, but he should not have to fear that unsatisfied litigants may hound him with litigation charging malice or corruption. Imposing such a burden on judges would contribute not to principled and fearless decison-making but to intimidation." *Id.* at 353-354.

[8] See Ill. Rev. Stat. Ch. 14, § 5.

of the distinction in *Robichaud* v. *Ronan*, 351 F.2d 533 (9th Cir. 1965) properly focuses on the character of the defendant's conduct, rather than his alleged motivation:

> "We believe, however, that when a prosecuting attorney acts in some capacity other than his quasi-judicial capacity, then the reason for his immunity—integral relationship between his acts and the judicial process—ceases to exist. If he acts in the role of a policeman, then why should he not be liable, as is the policeman, if, in so acting, he has deprived the plaintiff of rights, privileges, or immunities secured by the Federal Constitution and laws? See Monroe v. Pape, supra, 365 U.S. at 187, 81 S.Ct. 473; see also Schneider v. Shepherd, 192 Mich. 82, 158 N.W. 182, L.R.A. 1916F, 399 (1916), cited in Yaselli, 12 F.2d at 405. To us, it seems neither appropriate nor justifiable that, for the same act, immunity should protect the one and not the other." *Id.* at 536-537.

The conduct of Hanrahan and Jalovec in planning the raid may be described in various ways. At one extreme the complaints may be read to charge that they deliberately planned to have the police officers kill Hampton and Clark. Even without the allegation of improper political or racial motivation, it is plain that no immunity would apply under that reading. Regardless of his motives, the prosecutor certainly may not order subordinates to kill or to punish a free citizen without trial. Notwithstanding the tone of these complaints, however, appellants have not urged this extreme reading on the court; we therefore do not so interpret the allegations.

At the other extreme, defendants Hanrahan and Jalovec argue that they are charged with nothing more than the drafting of a search warrant which the raiding officers executed, an act which should be accepted as a traditional duty of the Attorney for the County. But we are persuaded that the "planning" allegations cannot fairly be read so narrowly. At the very least they charge that Hanrahan and Jalovec planned a raid in order to obtain evidence of criminal activity. Defendants argue that evidence gathering is so closely related to the presentation of evidence at trial that it should also be clothed with

immunity. We find this argument unpersuasive. Even though defensible if conducted in good faith with probable cause, the State's Attorney's alleged participation in the planning and execution of a raid of this character has no greater claim to complete immunity than activities of police officers allegedly acting under his direction.

The district court erred in holding that the immunity doctrine requires dismissal, without trial, of plaintiffs' charges against defendants Hanrahan and Jalovec.

2. *Mulchrone, Ervanian, Meade, Kukowinski, Purtell, Koludrovic, Sadunas, Sorosky and Meltreger.* The Johnson and Brewer complaints also allege that nine appellees, including seven police officers and two additional Assistant State's Attorneys, joined with Hanrahan and Jalovec and the 14 participating officers in an extensive conspiracy to cause the false arrest and imprisonment of the surviving plaintiffs, the institution of an unfounded prosecution, and the concealment of the truth from the public.

Several of the plaintiffs were arrested on December 4, 1969, charged with attempted murder and aggravated battery, and imprisoned until December 21, 1969; their prosecutions were continued until May 8, 1970. They allege that there was no legal basis for the arrests, the charges, or the imprisonment. Quite plainly, if the allegations are true, § 1983 authorizes relief against each person who, acting under color of state law, is responsible for these wrongs. Moreover, the conspiracy which they allege is also actionable under § 1985(3). We are satisfied that the post-raid charges against Hanrahan, Jalovec and the 14 police officers are sufficient under both § 1983 and § 1985(3). The sufficiency of the charges against the other defendants is less clear.

The complaints charge that these defendants took certain action designed to conceal the fact that there was no basis for arresting, holding or prosecuting the plaintiffs, and that the continuing concealment aggravated plaintiffs' injuries. Thus, Mulchrone and Ervanian, Supervising Officers of the Internal Inspections Division of the Chicago Police Department, allegedly limited the scope of their investigations in order to prevent information

contradicting the participating officers' version of the raid from coming to light. Defendant Meade prepared a set of questions and answers for the officers that would avoid a fair test of their veracity. Defendants Sorosky and Meltreger helped to edit these questions and answers.[9] Defendants Sadunas and Koludrovic gave false testimony at the coronor's inquest. Sadunas allegedly gave testimony before the grand jury which he knew to be false. Defendants Purtell and Sadunas allegedly filed an incomplete and erroneous firearms report — again to corroborate the official, but false, version of the raid.

The complaints allege that as a direct result of the conspiracy, the unfounded prosecution was continued until May 8, 1970, and plaintiffs incurred expenses in preparing their defense. The conspiracy charge is somewhat tenuous since it merely alleges that "some or all" of the defendants participated, and the causal connection between the conduct of several appellees and the alleged injury to plaintiffs is doubtful at best. Nevertheless, serious allegations of conspiracy have been made, and matters such as the extent of injury and causal connection raise questions for the trier of fact. Since we cannot say with certainty that there is no possibility that any set of facts which might be proved in support of the allegations would entitle one or more of the plaintiffs to some relief, it was error for the district court to enter judgment finally disposing of the claims against these defendants.

If the alleged conspiracy did exist, as we must assume at this stage of the case, and if it did prolong a completely unfounded prosecution, plaintiffs are entitled to relief against each conspirator. The vague allegation that "some or all" of the defendants were participants does not justify requiring them all to stand trial. But if *some* are in fact liable, it would be unjust to permit a final judgment to exonerate all before trial, or even discovery, has commenced. We therefore conclude that even if the

[9] The purpose of their review was allegedly to make certain that the officers would not give testimony inconsistent with previous official statements about the incident. The alleged conduct of Assistant State's Attorneys Sorosky and Meltreger clearly exceeded the scope of their quasi-judicial immunity. For, in substance, plaintiffs allege the deliberate preparation of perjured testimony.

charges against certain of the defendants may have been properly dimisssed because the allegations were deficient, it was error to enter final judgment in favor of Mulchrone, Ervanian, Meade, Kukowinski, Purtell, Koludrovic, Sadunas, Sorosky and Meltreger at this stage of the case.

3. *Daley and Conlisk.* In the Johnson and Brewer complaints, plaintiffs claim that Mayor Daley and Superintendent Conlisk are liable pursuant to 42 U.S.C. § 1986 for the consequences of the alleged conspiracy.[10] The charge, in essence, is that they had the power and authority to prevent a violation of § 1985(3) by the other defendants and failed to do so. Liability under § 1986, however, is dependent on proof of actual knowledge by a defendant of the wrongful conduct of his subordinates. In their brief, plaintiffs summarize the critical charges against Daley and Conlisk by stating that the complaints allege "that due to their positions of authority and responsibility, [they] knew of the conspiracy against the plaintiffs." Brief for Appellants at 43. We agree with the district court that those allegations are insufficient.

4. *City of Chicago and County of Cook.* The several claims against the City and the County under the Civil Rights Act were properly dismissed because these defendants are not "persons" within the meaning of the statute. See *Moor* v. *County of Alameda*, ... U.S. ....., 41 U.S.L.W. 4627, 4629-4632 (May 14, 1973). That decision makes it clear, however, that the district court had juris-

[10] Section 1986 provides:

"Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this title, are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or his legal representatives, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action; and if the death of any party be caused by any such wrongful act and neglect, the legal representatives of the deceased shall have such action therefor, and may recover not exceeding $5,000 damages therein, for the benefit of the widow of the deceased, if there be one, and if there be no widow, then for the benefit of the next of kin of the deceased. But no action under the provisions of this section shall be sustained which is not commenced within one year after the cause of action has accrued."

diction over Brewer's state law claims against the County, and presumably the City as well, on the basis of diversity of citizenship. 41 U.S.L.W. at 4634-4636.

Those claims, asserted in Counts 13, 14 and 15 of the Brewer complaint, allege common law torts of assault and battery, false imprisonment, and malicious prosecution. The district court held that these claims against the County are barred by the Illinois Local Governmental and Governmental Employees Tort Immunity Act, Ill. Rev. Stat. Ch. 85, §§ 1-101, *et seq.* The district court relied primarily on *Mills* v. *County of Winnebago*, 244 N.E. 2d 65 (2d Dist. 1969).[11] Subsequent to the decision of the district court, that case was overruled *sub silentio* by *Arnolt* v. *Highland Park*, 282 N.E. 2d 144 (1972). See *Krieger* v. *Carpentersville*, 289 N.E. 2d 481, 484 (2d Dist. 1972). As we read those cases, it now seems quite clear that the Illinois statute does not immunize municipal corporations from liability if their agents are guilty of wilful and wanton misconduct. The allegations in the Brewer complaint against the City of Chicago and Cook County are therefore sufficient.

The district court dismissed parallel state law claims in the Johnson complaint on the same grounds. However, there was no diversity of citizenship in that case, and this court ruled in *Wojtas* v. *Village of Niles*, 334 F.2d 797 (7th Cir. 1964), that the doctrine of pendent jurisdiction does not permit joinder of claims against a new party. Therefore, the dismissal of the state law claims in the Johnson complaint should be for want of jurisdiction, and the lower court's order is appropriately modified.

Insofar as the district court's order of February 3, 1972, dismissed the charges against the City of Chicago and the County of Cook, it is reversed with respect to the Brewer complaint and affirmed as modified with respect to the Johnson complaint; insofar as it dismissed the charges against Mayor Daley and Superintendent Conlisk, it is affirmed; insofar as it dismissed the charges against

[11] It also cited *Fustin* v. *Board of Education of Community Unit District No. 2*, 242 N.E.2d 308 (5th Dist. 1968), and *Woodman* v. *Litchfield Community School District, No. 12*, 242 N.E.2d 780 (5th Dist. 1968).

defendants Hanrahan, Jalovec, Mulchrone, Ervanian, Meade, Kukowinski, Purtell, Koludrovic, Sadunas, Sorosky and Meltreger, it is reversed. The case is remanded to the district court for further proceedings consistent with this opinion.

REVERSED AND REMANDED.

A true Copy:

Teste:

.....

Clerk of the United States Court of Appeals for the Seventh Circuit.

Iberia HAMPTON, Administratrix on behalf of the Estate of Fred A. Hampton, Deceased, Plaintiff,

v.

The CITY OF CHICAGO, COOK COUNTY, ILLINOIS, et al., Defendants.

Fannie Mae CLARK, Administratrix of the Estate of Mark Clark, deceased, Plaintiff,

v.

The CITY OF CHICAGO, a Municipal Corporation, et al., Defendants.

Verlina BREWER, by her next friend, William R. Brewer, Plaintiff,

v.

The CITY OF CHICAGO, a Municipal Corporation, et al., Defendants.

Deborah JOHNSON et al., Plaintiffs,

v.

The CITY OF CHICAGO, a Municipal Corporation, et al., Defendants.

Nos. 70 C 1381, 70 C 2371, 70 C 3026, 70 C 3029.

United States District Court, N. D. Illinois, E. D.

Feb. 3, 1972.

Consolidated civil rights actions for damages, against city, police officers and others, alleging that defendants committed acts under color of law which deprived plaintiffs of their constitutional rights. On the making of various motions by defendants, the District Court, Perry, J., held that city of Chicago is a municipal corporation and is not a "person" within meaning of the Civil Rights Act, and civil rights complaint against defendant police officers who were involved in raid upon apartment in which two persons were killed raised questions of fact and law that could not be resolved except upon trial.

Order accordingly.

1. Civil Rights ⇐13.8(3)

City of Chicago is a municipal corporation and is not a "person" within meaning of the Civil Rights Act. 42 U.S.C.A. § 1981 et seq.

See publication Words and Phrases for other judicial constructions and definitions.

2. Civil Rights ⇐2

Civil rights statutes are aimed at individuals who subject others to deprivation of their civil rights; personal involvement is contemplated, and these statutes are not aimed at the governmental organization which employs such individuals. 42 U.S.C.A. § 1981 et seq.

3. Civil Rights ⇐13.8(3)

County was not a "person" within definition of Civil Rights Act. 42 U.S.C.A. § 1981 et seq.

4. Civil Rights ⇐13.8(3)

Damages were not recoverable against county in civil rights action by reason of doctrine of respondeat superior, based upon alleged negligent acts of state's attorney and assistant state's attorneys, where Illinois law afforded the county, as a local public entity, immunity from civil liability because of acts of its employees done in the execution or enforcement of any law or committed by employees serving in positions involving determination of policy or exercise of discretion. S.H.A. ch. 85, § 1-101 et seq.; 42 U.S.C.A. § 1981 et seq.

5. Civil Rights ⇐13.8(3, 4)

Causes of action in civil rights complaint against mayor and city superintendent of police, arising out of police raid on an apartment, could not be maintained where mayor and superintendent were not charged with any personal participation in the raid or direct infliction of injury on plaintiffs, and where there was a lack of specificity as to failure of mayor and superintendent to train and supervise police, as well as a lack of any showing that they had any immediate supervision, direction or control of other defendants who executed the search warrant. 42 U.S.C.A. § 1981 et seq.

6. Civil Rights ⇐13.8(6)

State's attorney and assistant state's attorneys, who were defendants in consol-

idated civil rights action arising out of police raid on an apartment, were immune under the Illinois Tort Immunity Act where they were, at all time., quasi-judicial officers of the state in the performance of their official duties. S.H.A. ch. 85, § 1–101 et seq.

7. Civil Rights ⊂13.8(6)

In their quasi-judicial character and function, state's attorney and assistant state's attorneys were immune from liability under Illinois law and enjoyed the same common-law immunity afforded the judiciary, which immunity was not abrogated by enactment of the Civil Rights Act. S.H.A. ch. 85, § 1–101 et seq.; 42 U.S.C.A. § 1981 et seq.

8. Civil Rights ⊂13.13(3)

In civil rights action against defendant police officers and others, sufficient showing was not made which would indicate that actions of defendant officers caused deprivation of any of plaintiff's rights arising out of raid on apartment by police in which two people were killed, where defendant officers were assigned either to crime laboratory or to the internal inspections division of the police department, so that they were not involved in the police raid and did not cause any physical injuries to any of the plaintiffs. 42 U.S.C.A. § 1981 et seq.

9. Civil Rights ⊂13.14

Civil rights complaint against defendant police officers who were involved in raid upon apartment in which two persons were killed raised questions of fact and law that could not be resolved except upon trial. 42 U.S.C.A. § 1981 et seq.

Dennis Cunningham, Francis E. Andrew, Jeffrey Haas, Jonathan M. Hyman, Kermit Coleman, Cornelius E. Toole, James D. Montgomery, Chicago, Ill., David Scribner, New York City, William J. Bender, Newark, N. J., Arthur Kinoy, New York City, for plaintiffs.

Richard L. Curry, Corporation Counsel, City of Chicago, and Benjamin E. Novoselsky, John V. Virgilio, Michael S. Jordan, Asst. Corp. Counsels, and Edward V. Hanrahan, State's Atty., of Cook County, Ill., and Vincent Bentivenga, Nicholas Trovato, Gerald Mannix, Asst. State's Attys., Chicago, Ill., for defendants.

MEMORANDUM OPINION AND ORDERS

PERRY, District Judge.

On October 22, 1971, cases numbered 70 C 1384, 70 C 2371, 70 C 3026 and 70 C 3029 were by agreement and order of this court consolidated. Said cases were ordered to proceed for all purposes thereafter under case numbered 70 C 1384.

These suits are civil actions for damages. Plaintiffs allege defendants committed acts under color of law which deprived plaintiffs of their rights, privileges and immunities as guaranteed by the First, Fourth, Fifth, Eighth, Ninth, Thirteenth and Fourteenth Amendments to the Constitution of the United States and protected under 42 U.S.C. § 1981 et seq.

All four actions grow out of a "raid" by certain Chicago policemen (assigned as State's Attorney's Police) at an apartment located at 2337 W. Monroe Street in Chicago, Illinois, occupied by members of the Black Panther Party, and out of the aftermath of that raid. Plaintiffs allege certain of the defendants herein illegally entered said apartment on December 4, 1969 and assaulted them with deadly weapons, killing Fred Hampton in the presence of plaintiff Deborah Johnson, killing Mark Clark, and causing serious bodily harm to Verlina Brewer, Ronald Satchel, Blair Anderson and Brenda Harris. Plaintiffs Brewer, Johnson, Satchel, Anderson, Harris, Harold Bell and Louis Trueluck further charge they were illegally arrested, falsely imprisoned and prosecuted wrongfully and maliciously. Sued are the Chicago police officers who participated in the raid; certain other police officers assigned to the Crime Laboratory and Internal Inspections Division of the Chicago Police Department; the State's Attorney of Cook County and three Assistant State's Attorneys; the

City of Chicago as employer of the police officers; the County of Cook as employer of the state's attorneys; the Mayor of the City of Chicago, and the Superintendent of the Chicago Police Department.

The allegations made in these four suits are voluminous, and the court in this particular memorandum and order will not attempt here to set them forth in detail, nor further attempt to summarize them. The complaint in 70 C 1384 ("the Hampton case") covers 15 pages; in 70 C 2371 ("the Clark case"), 9 pages; in 70 C 3026 ("the Brewer case"), 42 pages; and in 70 C 3029 ("the case of Johnson, et al."), 68 pages.

Various defendants in the various cases have moved to dismiss the complaints wherein they are named for failure to state a cause of action and for lack of jurisdiction. Other motions to extend time to plead and motions to stay discovery have been filed. Plaintiffs have responded to the various motions and defendants have made reply. Following consolidation of the actions, other motions were filed by defendants on November 17, 1971; and on December 15, 1971, plaintiffs filed further answer to various defendants' motions to dismiss in this consolidated cause.

The court has now reviewed the four complaints and has read and considered all the motions and all the briefs and/or memoranda of the parties in support of their respective positions. The court's memorandum and its orders follow:

As to the Motions to Strike and Dismiss of the City of Chicago:

[1] The City of Chicago is a defendant in all four consolidated cases. Jurisdiction is alleged under the Civil Rights Act (42 U.S.C. § 1981 et seq.) The City of Chicago is a municipal corporation and not a "person" within the meaning of the Civil Rights Statute. It is now well established that an action for damages will not lie against a municipal corporation on these jurisdictional allegations. Monroe v. Pape, 365 U.S. 167, 191, 81 S.Ct. 473, 5 L.Ed.2d 492 (1961); United States ex rel. Lee v. State of Illinois, 343 F.2d 120 (7th Cir., 1965); Fisher v. City of New York, 312 F.2d 490 (2nd Cir. 1963); Spiesel v. City of New York, 239 F.Supp. 106 (S.D.N.Y., 1964); Wilcher v. Gain, 311 F.Supp. 754 (N.D.Cal., 1970).

[2] The civil rights statutes are aimed at individuals who subject others to deprivation of their civil rights and personal involvement is contemplated. They are not aimed at the city which employs them. Plaintiffs seek to hold the city liable here for the acts of its employees under the doctrine of *respondeat superior*. The theory that a municipality is liable for the failure to properly train, discipline, supervise, etc. its employees has been advanced in numerous cases in this court and elsewhere. The theory has been struck down. Salazar v. Dowd, 256 F.Supp. 220 (D.Colorado, 1966); and in this court, Down v. Daley, 69 C 1789; Williams et al. v. Barnes et al., 69 C 1942; Sanberg v. Daley, May ~ of the City of Chicago et al., 306 F.Supp. 277. Additionally, governmental entities have defenses under Chapter 85, Ill.Rev. Stats. (1969).

All of the counts in all four complaints as they relate to the City of Chicago should be stricken and the City should be dismissed from all four suits as a party defendant. It is, therefore, Ordered that the City of Chicago be and it is hereby dismissed as a party defendant in this consolidated case.

As to the Motions to Strike and Dismiss of the County of Cook, Illinois:

[3] As in the case of the City of Chicago, the county is not a "person" within the definition of the Civil Rights Act. Monroe v. Pape and other cases, supra, and Dodd v. Spokane County, Washington, 9th Cir., 393 F.2d 330.

[4] Plaintiffs, likewise, seek to recover damages against the County of Cook under the doctrine of *respondeat superior* based upon the alleged negligent acts of the State's Attorney of Cook County and certain Assistant State's Attorneys. The Illinois Local Governmental and Govern-

mental Employees Tort Immunity Act (Ill.Rev.Stats.1969, Chap. 85, § 1–101 et seq.) affords the County, as a local public entity, immunity from civil liability because of the acts of its employees done in the execution or enforcement of any law or committed by employees serving in positions involving determination of policy or exercise of discretion. The acts alleged to have been committed by said employees were done in their capacities as persons serving in positions involving said policy and discretion. Fustin v. Board of Education of Community Unit District No. 2, 101 Ill.App.2d 113, 242 N.E.2d 308; Woodman v. Litchfield Community School District No. 12, 102 Ill. App.2d 330, 242 N.E.2d 780; Mills v. County of Winnebago, 104 Ill.App.2d 366, 244 N.E.2d 65.

It is, therefore, Ordered that the County of Cook, Illinois be and it hereby is dismissed as a party defendant in the Hampton, Brewer and Johnson, et al. suits wherein it is named, and that the County of Cook be and it hereby is dismissed as a party defendant in this consolidated cause.

As to the Motions to Strike and Dismiss as to Richard J. Daley, Mayor of the City of Chicago, and James B. Conlisk, Jr., Superintendent of Police of the City of Chicago.

[5] The Mayor of the City of Chicago and the City's Superintendent of Police are named as defendants in the Brewer and Johnson, et al. suits. These causes of action against these defendants cannot be maintained as they fail to state the personal, specific and factual involvement necessary to impose liability.

The civil rights statutes are premised on personal culpability, as aforesaid. The Mayor and Superintendent of Police are not charged here with any personal participation in the raid or direct infliction of injury on plaintiffs. Plaintiffs seek to hold them liable under the doctrine of *respondeat superior*. There is a lack of specificity in the complaints as to the failure of said Mayor and Superintendent to train and supervise police employees and a lack of any showing that they had any immediate supervision, direction or control of the defendants executing the search warrant. To hold them liable under the doctrine of *respondeat superior* would be contrary to the law as decided in this District and elsewhere. Sanberg v. Richard J. Daley, Mayor of the City of Chicago, Down v. Daley and Salazar v. Dowd, all supra, and Jordan v. Kelly, 223 F.Supp. 731 (W.D.Mo., 1963).

The Mayor and the Superintendent of Police also are charged with conspiracy in allegations that there was a personal failure on their part to stop an alleged conspiracy they had the power to stop. This conclusory and general allegation is not well taken. Huey v. Barloga, 277 F.Supp. 864 (N.D.Ill., 1967).

In this court's opinion there is no showing of an act or an omission in dereliction of these defendants' public responsibility.

Accordingly, the motions of Richard J. Daley, Mayor of the City of Chicago, and James B. Conlisk, Superintendent, Chicago Police Department, to strike counts in the two complaints as to them are granted and it is Ordered that said defendants be and they hereby are dismissed as defendants in this consolidated cause in their individual and official capacities.

As to the Motions to Strike and Dismiss of Edward V. Hanrahan, State's Attorney of Cook County, and Richard S. Jalovec, James Meltzer and Sheldon Sorosky, Assistant State's Attorneys.

Plaintiffs allege various acts by the State's Attorney and three Assistant State's Attorneys in violation of plaintiffs' constitutionally protected rights. Among other things, plaintiffs allege that these defendants or some of them in their official capacities planned with others the raid upon the Monroe Street apartment and that as a result of the raid Fred Hampton and Mark Clark were killed and certain others wounded; that said defendants placed charges against some of the plaintiffs after planning with others

to do so; that said defendants caused the institution of criminal proceedings against some of the plaintiffs after planning to do so with others, and that said State's Attorney and Assistant State's Attorneys continued in the alleged malicious prosecution of said charges. The State's Attorney and Assistant State's Attorneys are not charged with on-the-scene participation in the raid, which raid was conducted by certain of the other defendants.

[6] Said State's Attorney and Assistant State's Attorneys plead, among other things, their official and governmental immunity as a bar to the actions against them and their immunity from civil liability for damages arising out of the performance of their official duties. The State's Attorney and Assistant State's Attorneys were, at all times enumerated by plaintiffs, quasi-judicial officers of the State of Illinois and in the performance of their official duties. They are immune under the Illinois Tort Immunity Act, Ill.Rev.Stat. (1969), Ch. 85, § 1-101 et seq.

A part of their official duties was and is the draftsmanship of legal papers, such as a search warrant. Their official duties and responsibilities include the necessary investigation of facts and evaluation of evidence so that they can determine from such facts and evidence whether or not an offense had been committed and what offenses an accused can be charged with. Such officials are necessarily involved in the presentation of the legal aspects of a case.

[7] In their quasi-judicial character and function the State's Attorney and Assistant State's Attorneys are immune from liability herein and enjoy the same common law immunity as afforded the judiciary. This immunity has not been abrogated by the enactment of the Civil Rights Act. Bauers v. Heisel, 361 F.2d 581 (3 Cir. 1966); Kostal v. Stoner, 292 F.2d 492 (10th Cir. 1961); Bradley v. Fisher, 13 Wall. 335, 80 U.S. 335, 20 L. Ed. 646; Cawley v. Warren, 216 F.2d 74 (7th Cir., 1954); Stift v. Lynch, 267 F. 2d 237 (7th Cir. 1959); Smith v. Dougherty et al., 286 F.2d 777 (7th Cir., 1961); Agnew v. Moody, 330 F.2d 868 (9th Cir., 1964); Wise v. City of Chicago, 308 F.2d 364 (7th Cir., 1962).

Here, too, as to these particular defendants the court has found many of the allegations conclusory. There are not sufficient allegations made by plaintiffs that these defendants went outside their judicial or quasi-judicial capacities and engaged in investigatory conduct other than that necessary to carrying out their duties in their judicial function.

There is no factual showing of malice or lack of good faith conduct by the State's Attorney and three Assistant State's Attorneys individually or in the performance of their official duties. Nor is there a sufficient showing that their alleged acts or omissions were unreasonable under the circumstances.

The principle of granting immunity to prosecuting attorneys has been recognized in many cases. (Bauers v. Heisel and other cases, supra). As was said in Bauers, 361 F.2d at pages 589 and 590:

". . . we believe that both reason and precedent require that a prosecuting attorney should be granted the same immunity as is afforded members of the judiciary. The reasons are clear: his primary responsibility is essentially judicial—the prosecution of the guilty and the protection of the innocent. . . . his office is vested with a vast quantum of discretion which is necessary for the vindication of the public interest. In this respect, it is imperative that he enjoy the same freedom and independence of action as that which is afforded members of the bench. This reasoning is nearly as well established in Anglo-American law as judicial immunity itself . . ."

The motions to strike and dismiss of the State's Attorney and three Assistant State's Attorneys should be granted and it is, therefore, Ordered that said Edward V. Hanrahan, Richard S. Jalovec, James Meltreger and Sheldon Sorosky be and they hereby are dismissed as parties defendant in the complaint here named and in this consolidated cause in

both their individual and official capacities.

As to the Motions to Strike and Dismiss of John Mulchrone, Harry Ervanian, John Meade, Robert Kukowinski, David Purtell, Charles Koludrovic and John Sadunas.

These police officers were not part of the so-called State's Attorney's detail. They were policemen assigned either to the Crime Laboratory or the Internal Inspections Division of the Chicago Police Department. None of them are alleged to have actually participated in the raid on the apartment at 2337 W. Monroe Street, Chicago. Plaintiffs in the Brewer and Johnson, et al. cases allege the subsequent involvement of this group of policemen. Plaintiffs seek to involve them in alleged conspiracy to instigate and continue alleged malicious prosecution of plaintiffs.

Plaintiffs allege defendants Koludrovic and "Doe" examined the premises of the raid "falsely" in order to justify the version of the incident by the State's Attorney's detail; that defendants Mulchrone, Ervanian, Meade, Kukowinski and "Roe" intentionally modified procedures and limited questions put to the other policemen; that Sadunas and Purtell produced a false and misleading firearms report, and that Sadunas and Koludrovic testified falsely all to the same end.

This group is among those defendants alleged by plaintiffs to have conspired to deprive plaintiffs of equal protection of the law and their civil rights by alleged wrongful and malicious prosecution. In this court's opinion there is not set forth by plaintiffs the required degree of specificity as to what each of these policemen (not part of the detail) did to interfere with the constitutional rights of each affected plaintiff so as to impose liability. It appears to the court that plaintiffs are attempting to hold these defendants liable for the acts of persons other than themselves or for the failure of other persons to act.

[8] These defendants caused no physical injury to any of the plaintiffs. They are not liable under the doctrine of *respondeat superior*. Some had to do with the investigation of the need, if any, to discipline any of the other defendant police officers who attempted to execute a search warrant. They had to do in various ways with the internal police department review of the conduct of the other group of police officers. This was an internal police department matter and plaintiffs were not parties thereto. As to the matter of the laboratory tests, the defendants making the tests were public employees in the exercise of a discretionary function and there is lack of specificity as to malice or lack of performance in good faith.

There is not sufficient pleading as to these defendants and lack of sufficient showing their actions caused the deprivation of any of plaintiffs' rights.

Defendants John Mulchrone, Harry Ervanian, John Meade, Robert Kukowinski, David Purtell, John Sadunas and Charles Koludrovic are hereby dismissed as parties defendant where named in these consolidated actions and it is Ordered that they be and they are hereby dismissed as party defendants in this consolidated cause in their individual and in their official capacities.

As to the Motions to Strike and Dismiss of defendants James Davis, Daniel Grot', Edward Carmody, John Ciszewski, Ray Broderick, George Jones, John Marusick, Lynwood Harris, Fred Howard, William Corbett, William Kelly, Philip Joseph, Joseph Gorman and Robert Hughes.

These police officers of the City of Chicago were detailed and/or on detached service with the Office of the Cook County State's Attorney as State's Attorney's police or detail. This group of policemen is charged in all four of the consolidated complaints with actual on-the-scene participation in the raid on the Monroe Street apartment occupied by Fred A. Hampton, Mark Clark, Verlina Brewer, Deborah Johnson, Ronald Satchel, Harold Bell, Blair Anderson, Brenda Harris and Louis Truelock. Plaintiffs charge illegal and forced entry of

the apartment and the unjustifiable use of excessive and deadly force by these officers acting under color of law. In the various complaints these policemen are charged with killing Fred Hampton in the presence of his fiance, Deborah Johnson, with killing Mark Clark, with wounding plaintiffs Satchel, Anderson and Harris, and with physically and verbally abusing and illegally arresting plaintiffs Brewer, Johnson, Satchel, Bell, Anderson, Harris and Truelock. They are also charged with conspiracy and conspiracy in connection with alleged and malicious prosecutions. These allegations and others are set forth in detail in the various complaints.

[9] As to certain of the allegations made in the complaints against these defendants, the court is of the opinion that there are questions of fact and of law that cannot be resolved except upon trial.

Therefore, the motions of James Davis, Daniel Groth, Edward Carmody, John Ciszewski, Ray Broderick, George Jones, John Marusich, Lynwood Harris, Fred Howard, William Corbett, William Kelly, Philip Joseph, Joseph Gorman and Robert Hughes to dismiss them as parties defendant in this consolidated cause is hereby denied.

The court is hereinafter granting plaintiffs leave to file amended complaints in this consolidated cause against these defendants and said defendants are directed to answer or otherwise plead within 20 days of the filing of said amended complaints.

Further Memorandum and Orders:

The court hereinabove having dismissed certain defendants as party defendants herein, any motions filed by the dismissed parties, such as to extend time to answer or plead, or to stay discovery, now are moot and require no ruling by the court.

The court finds the four complaints filed herein do not conform to the rules of pleading. All of the complaints are broad and contain a multiplicity of bare conclusory allegations without any support in the facts alleged. The complaints are replete with descriptive phrases that are scandalous and irrelevant. The court has spent considerable time in an attempt to detail the counts to be stricken in so far as they relate to the parties being dismissed and to direct elimination, where proper, of those references to defendants already hereinabove dismissed from these cases. It has likewise considered the striking of the innumerable words and phrases which are scandalous and the striking of material which is irrelevant and which constitutes the pleading of alleged evidence. It finally became the court's opinion and conclusion that even if it were to set forth in voluminous detail all the counts or parts thereof that should be stricken in these complaints, in the end the original complaints would not be clearly readable, understandable and in a useable condition.

It is, therefore, Ordered that each and all of the four complaints filed herein be and they hereby are stricken in their entirety. Plaintiffs in each of the four consolidated cases are given leave to file an amended complaint (under the consolidated case number and title, No. 70 C 1384, Iberia Hampton, Administratrix, on behalf of the Estate of Fred A. Hampton, Deceased, vs. James Davis, et al.) within 30 days hereafter against those certain defendants not already dismissed herein as party defendants. Plaintiffs are Ordered to conform to the rules of pleading in their amended complaints. Defendants are given 20 days after the filing of the amended complaints to answer or plead thereto, as aforesaid.

The motions of the police officers remaining as defendants herein to stay discovery are denied. The court directs discovery to proceed in this consolidated cause except that no defendant remaining herein who is, or may be, under indictment in Cook County, Illinois, for charges related to the subject matter of these law suits, shall be required to make any answer to request for admissions, give any statement, answer any interrogatory or give his deposition, orally or in writing, herein until after the final

order of the Criminal Court of Cook County has been entered therein, including a final disposition thereof in the highest court to which such order may be appealable either directly or indirectly.

The court having completely adjudicated plaintiff's claims against certain parties defendant herein by granting their motions to dismiss and dismissing them as defendants herein, and, further, the court having expressly determined that there is no just reason for delay in entering final judgment as to them, it is hereby Ordered that final judgment be and the same is hereby entered herein dismissing the four actions of all the plaintiffs and this consolidated cause as to defendants City of Chicago; County of Cook, Illinois; Richard J. Daley Mayor of the City of Chicago; James B. Conlisk, Superintendent of Police of the City of Chicago; Edward V. Hanrahan, State's Attorney of Cook County; Richard S. Jalovec, James Meltreger and Sheldon Sorosky, Assistant State's Attorneys; John Mulchrone, Harry Ervanian, John Meade, Robert Kukowinski, David Purtell, Charles Koludrovic and John Sadunas.

COURT, U. S.

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1973

Nos. 73-813
73-821

EDWARD V. HANRAHAN, *et al.*,

Petitioners,

v.

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IBERIA HAMPTON, Administratrix on behalf of the Estate of Fred A. Hampton, Deceased, *et al.*,

Respondents,

AND

CITY OF CHICAGO, *et al.*,

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Respondents.

BRIEF IN OPPOSITION TO PETITIONS FOR WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

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Conley v. Gibson,
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Escalera v. New York City Housing
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Gregoire v. Biddle,
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Young v. Hansen,
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Other Sources:

Baum, "Tort Liability of Local Governments and Their Employees: An Introduction to the Illinois Immunity Act," 1966 U. of Ill. L.F. 981 48

Comment, "Illinois Tort Claims Act: A New Approach to Municipal Tort Immunity in Illinois," 61 Nw. U. L.R. 265 (1966-67) 49

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1973

Nos. 73-813
73-821

EDWARD V. HANRAHAN, et al.,
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BRIEF IN OPPOSITION TO PETITIONS FOR WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

OPINIONS BELOW

The decision of the United States Court of Appeals for the Seventh Circuit is not yet reported. The decision is reprinted as Appendix "B" to the Petition of the City of Chicago, et al., and as Appendix "A" to the Petition of Hanrahan, et al.

The decision of the United States District Court is reported at 339 F. Supp. 695 (N.D.

Ill. 1972). This decision is reprinted as Appendix "B" to the Petition of Hanrahan, et al., and as Appeniix "A" to the Petition of the City of Chicago, et al.

JURISDICTION

Respondents accept the statements of all Petitioners concerning the Jurisdiction of this Court.

QUESTIONS PRESENTED

I Whether the Court of Appeals properly reinstated Civil Rights causes of action against Petitioners Hanrahan and Jalovec where the complaints allege that these States Attorneys engaged in illegal conduct, clearly outside the scope of their office, by planning and conducting a violent raid intended to cause death and injury to Respondents and by participating in subsequent conspiracies to conceal the true nature of their illegal acts.

II Whether the Court of Appeals properly reinstated causes of action against Petitioners Mulchrone, Ervanian, Meade, Kukowinski, Purtell, Koludrovic, Sadunas, Meltreger, Sorosky, Hanrahan and Jalovec where Respondents set forth a network of specific facts which allege that each Petitioner engaged in heinous acts in furtherance of an extensive conspiracy to cause the false arrest and imprisonment of the survivors of the illegal raid, the institution of unfounded prosecutions and the concealment of the truth from the public, in violation of the statutory and constitutional rights of the Respondents.

III Whether the Court of Appeals properly recognized that state law could be invoked by Respondent Brewer, who, in her diversity

jurisdiction claims, pleaded violations of Illinois Tort Law for the willful and wanton misconduct of the Petitioners, carried out in bad faith, consisting of assault and battery, false imprisonment and malicious prosecution.

STATUTES INVOLVED

SMITH HURD ILLINOIS ANNOTATED STATUTES

LOCAL GOVERNMENTAL AND GOVERNMENTAL EMPLOYEES TORT IMMUNITY ACT

Part 2. Immunity of public employees
S.H.A. ch. 85, §§2-109, 2-201-2, 2-208.

§ 2—109. Acts or omissions

A local public entity is not liable for an injury resulting from an act or omission of its employee where the employee is not liable. 1965, Aug. 13, Laws 1965, p. 2983, § 2-109.

§ 2—201. Determination of policy or exercise of discretion

Except as otherwise provided by Statute, a public employee serving in a position involving the determination of policy or the exercise of discretion is not liable for an injury resulting from his act or omission in determining policy when acting in the exercise of such discretion even though abused. 1965, Aug. 13, Laws 1965, p. 2983, § 2-201.

§ 2—202. Execution or enforcement of law

A public employee is not liable for his act or omission in the execution or enforcement of any law unless such act or omission constitutes willful and wanton negligence. 1965, Aug. 13, Laws 1965, p. 2983, § 2-202.

§ 2—208. Institution or prosecution of judicial or administrative proceeding

A public employee is not liable for injury caused by his instituting or prosecuting any judicial or administrative proceeding within the scope of his employment, unless he acts maliciously and without probable cause. 1965, Aug. 13, Laws 1965, p. 2983, § 2-208.

ATTORNEY GENERAL AND STATE'S ATTORNEYS
Section 5. Duties of State's Attorneys
S.H.A. ch. 14, §5.

§ 5. Duties of state's attorney

The duty of each State's attorney shall be:

(1) To commence and prosecute all actions, suits, indictments and prosecutions, civil and criminal, in the circuit court for his county, in which the people of the State or county may be concerned.

(2) To prosecute all forfeited bonds and recognizances, and all actions and proceedings for the recovery of debts, revenues, moneys, fines, penalties and forfeitures accruing to the State or his county, or to any school district or road district in his county; also, to prosecute all suits in his county against railroad or transportation companies, which may be prosecuted in the name of the People of the State of Illinois.

(3) To commence and prosecute all actions and proceedings brought by any county officer in his official capacity.

(4) To defend all actions and proceedings brought against his county, or against any county or State officer, in his official capacity, within his county.

(5) To attend the examination of all persons brought before any judge on habeas corpus, when the prosecution is in his county.

(6) To attend before judges and prosecute charges of felony or misdemeanor, for which the offender is required to be recognized to appear before the circuit court, when in his power so to do.

(7) To give his opinion, without fee or reward, to any county officer in his county, upon any question or law relating to any criminal or other matter, in which the people or the county may be concerned.

(8) To assist the attorney general whenever it may be necessary, and in cases of appeal from his county to the Supreme Court, to which it is the duty of the attorney general to attend, he shall furnish the attorney general at least 10 days before such is due to be filed, a manuscript of a proposed statement, brief and argument to be printed and filed on behalf of the people, prepared in accordance with the rules of the Supreme Court. However, if such brief, argument or other document is due to be filed by law or order of court within this 10 day period, then the State's attorney shall furnish such as soon as may be reasonable.

(9) To pay all moneys received by him in trust, without delay, to the officer who by law is entitled to the custody thereof.

(10) To perform such other and further duties as may, from time to time, be enjoined on him by law.

(11) To appear in all proceedings by collectors of taxes against delinquent taxpayers for judgments to sell real estate, and see that all the necessary preliminary steps have been legally taken to make the judgment legal and binding.

STATEMENT OF THE CASE

This case arises out of the violent and allegedly illegal predawn raid at the home of Fred Hampton in Chicago, Illinois on December 4, 1969, the subsequent illegal actions surrounding the unfounded imprisonment and prosecution of surviving occupants of Hampton's apartment, and the extensive official actions taken to conceal and distort the flagrantly illegal nature of Petitioners' own wrongdoings during and after the raid. All of these actions were part of a number of specific but far reaching conspiracies to deprive Respondents of their constitutional and statutory rights because of their race and political beliefs, specifically their membership in the Black Panther Party. During the raid, Fred Hampton and Mark Clark were killed by police gunshots. Others were seriously wounded.

The Plaintiff-Respondents are Iberia Hampton, Administratrix of the estate of her son, Fred A. Hampton, deceased; Fannie Mae Clark, Administratrix of the estate of her son, Mark Clark, deceased; Verlina Brewer, by her next friend, William R. Brewer; Deborah Johnson; Ronald Satchel, by his next friend, Clara Bridges; Harold Bell; Blair Anderson, by his next friend, Benjamin Hester; Brenda Harris; and Louis Truelock.

Four separate complaints were filed in which Respondents claimed actual and punitive damages under the Federal Civil Rights Acts (42 U.S.C. §§1981, 1983, 1985, 1986, 1988) and under Illinois law (Illinois Rev. Stat. Ch. 85, §§1-101 et seq.). The District Court consolidated the four cases.

The defendants named in the complaints were: the fourteen police officers, assigned to the State's Attorney's office, who actually conducted the raid;[1] Edward V. Hanrahan, former State's Attorney of Cook County; Richard S. Jalovec and Sheldon Sorosky, former Assistant State's Attorneys; James Meltreger, Assistant State's Attorney; John Mulchrone, Harry Ervanian, John Meade, Robert Kukowinski, David Purtell, John Sadunas, and Charles Koludrovic, members of the Chicago Police Department's Internal Inspections Division (IID) and Crime Laboratory; Richard J. Daley, Mayor of Chicago; James B. Conlisk, Superintendent, Chicago Police Department; the City of Chicago and Cook County, employers of the above defendants.

Motions to dismiss were filed by all defendants. The District Court found the allegations plainly sufficient to state claims against the fourteen State's Attorney police who conducted the raid. Final judgment was entered dismissing all claims against the remaining fifteen defendants.

The United States Court of Appeals for the Seventh Circuit substantially reversed the District Court's holdings. It reversed and remanded as to defendants Hanrahan and Jalovec, as well as to defendants Sorosky, Meltreger, and the seven IID and Crime Laboratory officers. Circuit Judge Stevens stated that, "[t]he district court erred in holding that the immunity doctrine requires

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[1] In their Petition for Certiorari, Petitioners Hanarahan, et al. incorrectly stated that only seven of these fourteen officers were named as defendants.

dismissal, without trial, of plaintiffs' charges against defendants Hanrahan and Jalovec."[2] The allegations against Hanrahan and Jalovec were held sufficient, under the Federal Civil Rights Acts, to withstand a motion to dismiss. In order to determine the liability of the prosecutorial defendants, the Seventh Circuit required a factual examination as to whether their alleged wrongdoings were outside the scope of the authority of state's attorneys.

The Court of Appeals further held that the District Court incorrectly entered a final judgment disposing of the conspiracy claims against defendants Sorosky, Meltreger, and the IID and Crime Laboratory officials. As with Hanrahan and Jalovec, the issues involved were found to require resolution by the trier of fact. The Court held that, "if some [defendants] are in fact liable, it would be unjust to exonerate all before trial, or even discovery, has commenced."[3]

In addition, the Seventh Circuit upheld state tort claims pleaded by Respondent Brewer, a Michigan resident, against the defendants City and County in her complaint predicated on diversity jurisdiction. The opinion stated that, "[T]he Illinois statute does not immunize municipal corporations from liability

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[2] The Court of Appeals opinion is reprinted in the appendix to the Petition for Certiorari of Hanrahan, et al. (Hereinafter, Pet. followed by the designated appendix page number), e.g., Pet. 8a.

[3] Pet. 9a

if their agents are guilty of willful and wanton misconduct. The allegations in the Brewer complaint against the City of Chicago and Cook County are therefore sufficient."[4] The District Court's dismissal of all other counts by remaining plaintiffs against the City and County, and of all counts against defendants Daley and Conlisk was affirmed by the Court of Appeals.

The Petitioners here are: Hanrahan and Jalovec; Mulchrone, Ervanian, Meade, Kukowinski, Purtell, Sadunas, Koludrovic, Sorosky, and Meltreger; and the City of Chicago.[5]

Motions to stay the mandate of the Seventh Circuit were made by Petitioners and denied. All remaining causes of action were remanded to the Trial Court and discovery proceedings are presently underway.

A. Conduct Of Petitioners Hanrahan And Jalovec

1. Prior To and During The Raid

As characterized by Circuit Judge Stevens, the, "[p]laintiffs allege that fourteen Chicago police officers raided an apartment at 2337 West Monroe Street at 4:15 A.M. on December 4, 1969, for the purpose of killing Mark Clark and Fred Hampton and punishing seven other residents of the apartment because they were Black and had exercised their First

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[4] Pet. 11a

[5] The County did not join in these Certiorari proceedings.

Amendment rights as members of the Black Panther Party."[6] Petitioners Hanrahan and Jalovec, along with these fourteen officers, met and planned this raid as part of an overall conspiracy to deprive Respondents of their constitutional and statutory rights and to discriminate against them because of their race and political beliefs.[7] The complaints state that: At a predawn hour when defendants knew the Hampton apartment would be occupied, fourteen heavily armed police officers, on special assignment to the State's Attorney's office, raided those premises.[8] Established procedures for subduing occupants during a search, such as the use of tear gas,were ignored.[9] Instead, upon entry and without provocation, the police used automatic machine

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[6] Pet. 1a-2a

[7] All references to the complaints, which are reprinted in the appendix to this brief, are cited as follows: H 1-15 refer to the pages of Respondent Hampton's complaint; C 16-24 refer to the pages of Respondent Clark's complaint; B 25-66 refer to the pages of Respondent Brewer's complaint; J 67-134 refer to the pages of Respondent Johnson's complaint, e.g., Liability predicated upon 42 USC §§ 1983, 1985;H 9-¶33; C 23-¶19; B 37-¶45; J 86-¶52.

[8] B 36-¶43; J 82-¶50

[9] Ibid.

guns, carbines, pistols, and shotguns to fire massive amounts of ammunition into Hampton's bedroom, as well as into the general living quarters of the apartment.[10] Hanrahan, Jalovec, and others did willfully, maliciously, and with specific intent plan these acts which involved the use of deadly and excessive force.[11] As a direct and proximate result of the use of this deadly and excessive force, two young men--Black Panther Party Chairman Fred Hampton and Mark Clark--were killed.[12] Hampton's bullet-riddled body was dragged from his bed to an adjoining room without knowledge of whether he was dead or alive.[13] Four additional plaintiffs were greviously wounded by police gunfire.[14] All seven surviving plaintiffs, including a woman who was eight months pregnant, were verbally and physically abused and subject to illegal arrest.[15] Before leaving, the raiding party ransacked the premises, stole and damaged personal property, and spoliated evidence of their own illegal acts.[16]

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[10] H 5-¶¶13-16; C 21-¶12; B 32-¶27; J 76-¶32

[11] H 6-¶20; C 23-¶16; B 33-¶32; J 77-¶39

[12] H 6-¶20; C 22-¶14

[13] H 5-¶18

[14] B 32-¶28; J 76-¶33

[15] B 32-¶29; J 76-¶¶35, 36

[16] H 5-¶19; B 32-¶30; J 76-¶37

Thus, the complaints clearly allege that Petitioners Hanrahan and Jalovec, as well as the fourteen participating officers, did intentionally and negligently deprive plaintiffs of their civil rights by this illegal entry, assault, battery and other illegal acts, and in the case of Hampton and Clark, by the summary punishment of wrongful death.[17] Furthermore, as "immediate superiors of the raiding party" and/or as "co-participants," Hanrahan and Jalovec allegedly had prior knowledge of the conspiracy, had the power to prevent the illegal acts committed, and did absolutely neglect and refuse to do so.[18]

2. After the Raid

The complaints set forth events that transpired subsequent to the raid, which further deprived the surviving plaintiffs of their fundamental civil rights. The seven surviving occupants of Hampton's apartment were subjected to false imprisonment and to willful

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[17] Liability predicated upon 42 USC § 1981 et seq, particularly §1983. H 6-¶20, H 8-¶30; C 20-¶8; B 31-Count one, B 35-Count two; J 75 -Count one, J 82-Count two.

[18] Liability predicated upon 42 USC §1986; H 10-¶35; B 38-¶47; J 90-¶54

and malicious prosecution.[19] As characterized by the Seventh Circuit, the plaintiffs allege that Hanrahan, Jalovec and others were involved in "an extensive conspiracy to cause the false arrest and imprisonment of the surviving plaintiffs, the institution of an unfounded prosecution, and the concealment of the truth from the public."[20] Petitioners Hanrahan and Jalovec not only participated in this conspiracy,[21] but had the power and

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[19] Liability predicated upon 42 USC §1981 et seq., particularly §1983. B 39-Count five, B 52-Count nine; J 93-Count five, J 117-Count nine.

During and after the raid at Hampton's apartment, the fourteen participating officers and the seven members of the Police Department's Crime Laboratory and IID were employees of the City of Chicago. While duly employed officials of that City, defendants allegedly injured plaintiffs by their willful and wanton conduct, namely, the illegal entry, assault and battery, false imprisonment, and malicious prosecution of these Black Panthers. Under the theory of respondeat superior, the City of Chicago is liable for injuries sustained by plaintiff Brewer, who established jurisdiction by diversity of citizenship. (B 59-66)

[20] Pet. 8a

[21] Liability predicated upon 42 USC §§ 1983, 1985; B 41-Count six, B 43-Count eight; J 97-Count six, J 103-Count eight.

authority to prevent the harm suffered by Respondents, and once again did neglect and refuse to do so.[22]

The complaints allege that, in furtherance of this extensive conspiracy, Hanrahan, Jalovec, and others planned and agreed to lodge knowingly fraudulent charges of attempted murder, aggravated battery, and other offenses against the surviving plaintiffs.[23] After plaintiffs' arrests, bail was set prohibitively high. Plaintiffs were denied a preliminary hearing at which they would have been able to demonstrate the utter falsity of the charges.[24] Consequently, they remained illegally incarcerated on knowingly false charges for eighteen days.[25]

In conjunction with their actions concerning plaintiffs' imprisonment and prosecution, Hanrahan and Jalovec played primary roles in preparing and publicizing a falsified version of the raid. The complaints allege that defendants met and prepared a composite version of the raid that would justify the wanton brutality of the participating police officers.[26]

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[22] Liability predicated upon 42 USC §1986; B 42-Count seven, B 55-Count ten; J 100-Count seven, J 122-Count ten.

[23] B 40-¶50; J 93-¶57

[24] B 40-¶¶49, 50; J 93-¶¶56, 57

[25] B 40-¶52; J 94-¶59

[26] B 47-¶e; J 108-¶e

Portions of this falsified account were released to the press, television, and radio, including a detailed photographic report.[27] Hanrahan and Jalovec staged and directed a filmed re-enactment of the December 4th raid for television that they knew to be a false depiction of those occurrences.[28] Hanrahan requested an investigation by the Internal Inspections Division of the Chicago Police Department designed to corroborate his false version of the raid. He thereby once more sought to justify the illegal actions of the raiding officers, and to support the knowingly false criminal charges lodged against the surviving plaintiffs.[29]

B. Conduct Of Petitioners Sorosky, Meltreger, Mulchrone, Ervanian, Meade, Kukowinski, Purtell, Koludrovic, And Sadunas.

The complaints allege that in periodic meetings after the raid, defendants Sorosky, Meltreger, Mulchrone, Ervanian, Meade, Kukowinski, Purtell, Koludrovic, and Sadunas did plan, agree, and conspire to injure plaintiffs by preparing and circulating to the public a number of "official reports." These reports were calculated to falsify and distort the occurrences of the brutal December 4th raid. They also served to justify the continued

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[27] B 47-¶¶f,h; J 108-¶f, J 109-¶h

[28] B 48-¶i; J 109-¶i

[29] B 48-¶k; J 110-¶k

prosecution of the imprisoned plaintiffs.[30] The above-named Petitioners were specifically responsible for manipulating the investigations and findings of the Police Department Crime Laboratory and Internal Inspections Division.

The allegations concerning the Crime Laboratory officials charge that Sadunas and Purtell filed an incomplete and erroneous firearms report which incorrectly concluded that plaintiff Harris fired at the police during the raid.[31] At the Cook County Coroner's Inquest, Sadunas and Koludrovic testified falsely concerning the physical evidence removed from Hampton's apartment.[32] Sadunas, under oath, gave testimony before the Cook County Grand Jury that he knew to be false, inaccurate, and misleading.[33]

The entire IID investigation was allegedly a blatant attempt to further validate the knowingly false version of the raid. IID Supervisors Mulchrone and Ervanian intentionally avoided using standard investigatory procedures in order to prevent the disclosure of any damaging information.[34] In searching the apartment after the raid, Koludrovic and others sought only evidence of shots fired

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[30] B 44-¶60; J 104-¶67

[31] B 51-¶u; J 113-¶u

[32] B 50-¶t; J 113-¶t

[33] B 51-¶v; J 113-¶v

[34] B 48-¶l; J 110-¶l

by occupants and not evidence of the shots fired by the police.[35]

Petitioner Meade, along with Assistant State's Attorneys Sorosky and Meltreger, prepared all the questions with the corresponding desired answers in advance of the bogus IID interrogation of the fourteen participating police officers.[36] Sorosky, Meltreger, and Jalovec then met with those officers prior to the interrogation and informed them of the appropriate false responses to those questions.[37] These actions were taken to insure that there would be no discrepancy between the findings of the IID and Hanrahan's knowingly false version of the raid.

It is therefore clearly pleaded that, by participating in the concealment of the truth concerning the raid and in the willful and malicious prosecution of the survivors, Petitioners Sorosky, Meltreger, Mulchrone, Ervanian, Meade, Kukowinski, Purtell, Koludrovic, and Sadunas intentionally deprived Respondents of their civil rights.[38] In addition, they conspired to deprive the survivors the the equal protection of the laws,[39]

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[35] B 46-¶c; J 107-¶c

[36] B 49-¶¶m,n; J 110-¶¶m,n

[37] J 111-¶o

[38] Liability predicated upon 42 USC §1981 et seq, particularly §1983; B 52-Count nine; J 117-Count nine.

[39] Liability predicated upon 42 USC §1983, §1985; B 43-Count eight; J 103-Count eight.

and neglected to prevent harm to those Respondents when they had the power, authority, and responsibility to do so.[40]

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[40] Liability predicated upon 42 USC §1986; B 55-Count ten; J 122-Count ten.

SUMMARY OF ARGUMENT

The complaints filed by Respondents allege that they have been injured and deprived of their statutory and constitutional rights at the hands of Petitioners, who planned and conducted a violent raid, intended to kill Fred Hampton and Mark Clark and injure other Respondents because of their race and political beliefs. Petitioners are also alleged to have engaged in subsequent conspiracies and illegal actions to obfuscate the nature of their own wrongdoings. The Court of Appeals properly held that the allegations sufficiently stated Civil Rights causes of action against Petitioner State's Attorneys, and that as a matter of law, the doctrine of quasi-judicial immunity does not require dismissal of these claims without trial.

Respondents seek to vindicate federally protected rights and to recover from Petitioners for the flagrantly illegal and ruthless acts which were totally unrelated to Petitioners' quasi-judicial offices. Petitioners attempt to shield themselves from liability for their misconduct by subverting the century-old doctrine of judicial immunity. This doctrine requires that the liability of judicial officers is to be determined by the nature of the conduct and not by virtue of the offices they hold. Petitioners urge that this Court undermine one hundred years of legal precedent and clothe them with an absolute protection from liability irrespective of the nature of their alleged misconduct. Respondents argue that the factual determination as to the nature of Petitioners' conduct, ordered by the Court of Appeals, should be allowed to proceed.

Respondents' complaints allege that Petitioners were engaged in,"an extensive con-

spiracy to cause the false arrest and imprisonment of the surviving plaintiffs and the institution of an unfounded prosecution, and the concealment of the truth from the public." See Statement of the Case, p. 12. The Court of Appeals properly held that these allegations were sufficient to sustain a civil conspiracy cause of action under the existing standards for such pleadings established by this Court.

The Court of Appeals properly held that the allegations in the Brewer complaint constituted sufficient causes of action, notwithstanding Petitioners' claim that the Illinois Tort Immunity Act precludes liability for the City of Chicago. Neither the Act nor the relevant Illinois case law supports this claim of immunity by the City of Chicago for the willful and wanton misconduct of its agents.

I. THIS COURT SHOULD DENY CERTIORARI BECAUSE THE STATE'S ATTORNEY PETITIONERS ARE LIABLE FOR THE VIOLATIONS OF THE CIVIL RIGHTS ACTS AS ALLEGED IN THESE COMPLAINTS.

A. The Court Of Appeals Correctly Applied Existing Legal Standards, As Established By This Court, In Sustaining The Sufficiently Pleaded Theories Of Liability For These Prosecutorial Officials.

The Court of Appeals ruled that the District Court erred in holding that the immunity doctrine requires dismissal, without trial, of the causes of action against Petitioners Hanrahan and Jalovec for their alleged participation in the planning and execution of the raid.[41] This ruling is consistent with the legal standards established by this Court and with the decisional law of the other circuits. These decisions recognize a clear basis for allowing this civil action against these prosecutorial defendants.

Respondents allege that they have been the victims of a deliberate abuse of governmental power and a purposeful discrimination by these State's Attorneys. The acts for which Respondents seek to hold Petitioners liable "are manifestly [and] palpably beyond their authority," and have no "connection with the general matters committed by law to [their] control or supervision." Spalding v. Vilas,

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[41] Petitioners Hanrahan and Jalovec are also alleged to have been participants in the conspiracies subsequent to the actual planning and execution of the raid. These allegations are discussed in Part II, of this brief, infra.

161 U.S. 483, 498 (1896). The acts with which Petitioners are charged are unrelated to the judicial process and are nowhere authorized for them in the Statutes or Constitutions of Illinois or the Nation. Rather, the allegations charge that Respondents were subjected to the misuse of state power and the flagrant violation of their constitutional rights by these Petitioners, made possible only because Petitioners were clothed with the authority of state office.

This Court has consistently held that judicial and quasi-judicial officials are liable in damages when they act outside their judicial and quasi-judicial capacities. The leading decision of this Court concerning the doctrine of judicial immunity at common law holds that judicial officers will be liable to civil actions when they act in the absence of jurisdiction.[42] "Where there is clearly no jurisdiction ... any authority exercised is a usurped authority, and for the exercise of such authority ... no excuse is permissible." Bradley v. Fisher, 80 U.S. 335, 351-52 (1871). The planning, direction, and authorization of an illegal raid involving the use of deadly force clearly are not judicial or quasi-judicial functions.

This Court has also required that the liability of judicial and quasi-judicial officers is to be determined by the nature of their conduct and not by virtue of the offices

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[42] In Yaselli v. Goff, 12 F.2d 396 (2d Cir., 1926); aff'd per curiam, 275 U.S. 503 (1927), on the authority of Bradley v. Fisher, 80 U.S. 335, 347 (1871) and Alzua v. Johnson, 231 U.S. 106, 111 (1913), it was held that the doctrine of judicial immunity was to be afforded to "quasi-judicial" officers, such as prosecuting attorneys.

they hold. Specifically, such officials are liable for actions which are not discretionary. Ex Parte Virginia, 100 U.S. 339 (1879). "It is not the title of office but the duties with which the particular officer ... is entrusted ... which must provide the guide in delineating the scope of the rule which clothes official acts ... with immunity ...." Barr v. Mateo, 360 U.S. 564, 573 (1959). "There is no litmus paper test to distinguish acts of discretion**, ... the determination of the real question [is whether] the act complained of [is] the result of a judgment or decision which it is necessary that the government official be free to make without fear or threat of vexatious or fictitious suits and alleged personal liability?" Ove Gustavsson Contracting Co. v. Floete, 299 F.2d 655, 659 (2d Cir., 1962).

The obligation of these Petitioners to protect life, liberty and due process, and to afford the equal protection of the laws, is not a discretionary governmental function. Such protections are constitutional guarantees. Petitioners, like all public officials, have a duty to insure the protection of such rights. See, Logan v. United States, 144 U.S. 263 (1892); Screws v. United States, 325 U.S. 91 (1945); and Monroe v. Pape, 365 U.S.167 (1961). Respondents allege that these prosecutorial defendants have unlawfully, willfully, and maliciously violated their constitutional rights and deprived them of the equal protection of the laws. It is anomalous for Petitioners to suggest that such unlawful, willful and malicious violations of the Constitution have ever been committed by law to the discretionary control or supervision of any officer, regardless of rank or station in the government. No official is given a "discretionary function" which constitutes a license to violate the fundamental rights

guaranteed by the Constitution. Where judicial officers, such as these prosecuting attorneys, engage in deliberate violations of constitutional rights, such conduct is beyond the scope of duties constituting an integral part of the judicial process, and has no, "connection with the general matters committed by law to the officer's control." Spalding v. Vilas, supra, at 498. Hence, these prosecutors cannot, "shelter [themselves] from liability by the plea that [they] are acting under color of office (citations omitted)." Lynch v. Johnson, 420 F.2d 818, 821 (6th Cir., 1970).

This Court has continually refused to extend the doctrine of immunity to exempt judicial officers from liability in damages for the type of conduct alleged in this case. In Yaselli v. Goff, 12 F.2d 396 (2d Cir., 1926); aff'd per curiam, 275 U.S. 503 (1927), on the authority of Bradley v. Fisher, supra, and Alzua v. Johnson, 231 U.S. 106 (1913), the Court emphasized that prosecuting attorneys would be liable for misconduct unrelated to the duties of a quasi-judicial officer, Yaselli v. Goff, supra, at 406. "If [a prosecuting attorney] proceeds upon such a course of action, he does so at the same peril as does the unofficial citizen. His office is not a cloak to protect him from liability for a wrong thereby resulting to an innocent person." Schneider v. Shepherd, 192 Mich. 82, 88, 158 N.W. 182, 184 (1916), cited with approval in Yaselli v. Goff, supra, at 405.[43]

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[43] Yaselli v. Goff, supra, aff'd per curiam by this Court, relies on two cases where prosecuting attorneys were held liable in civil damages. Because of the remarkably similar facts, significant portions of

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those cases are quoted:

> In Schneider v. Shepherd, 192 Mich. 82 158 N.W. 182 (1916), the prosecuting attorney directed the chief of police of the city of Detroit to raid a certain house and arrest the inmates and bring them to police headquarters. This he did on the strength of a report ... that the place to be raided was a house of prostitution. It was in fact the home of a reputable citizen. The action brought was for an illegal arrest, and the defense interposed was probable cause, and that defendant was entitled to the immunity of a quasi-judicial officer. The trial judge called attention to the fact that under the Constitution and statutes of Michigan the duty of prosecuting attorneys was to prosecute or defend in all the courts of the county all prosecutions, suits, applications, and motions, whether civil or criminal, in which the state or county may be a party .... The judge went on to say: "The investigation of alleged crimes by the prosecuting attorney, ... finds no statutory sanction in the prescribed powers and duties of a prosecuting attorney. If he proceeds upon such a course of action, he does so at the same peril as does the unofficial citizen. His office is not a cloak to protect him from liability from a wrong thereby resulting to an innocent person subjected to false arrest. The statute affords no such robe of immunity."
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> "In Leong Yau v. Carden, 23 Hawaii, 362, 369, the court said: "A public prosecuting officer, in determining whether certain purported facts

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The Civil Rights Acts were enacted specifically to provide a mechanism whereby the federal system could intervene when public officials, acting under color of law, deprived citizens, like these Respondents, of rights guaranteed to all, irrespective of race. Monroe v. Pape, 365 U.S. 167 (1961). The role of the federal government as a guarantor of basic federal rights against the abuse of power by the states was clearly established. Bell v. Hood, 327 U.S. 678 (1946). "Section 1983 opened the federal courts to private citizens, offering a uniquely federal remedy against incursions ... upon rights secured by the Constitution and laws of the Nation." Mitchum v. Foster, 407 U.S. 225, 239

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> ... justify the accusation and prosecution of a person believed to have committed an offense, acts in a quasi-judicial capacity, and he is not to be held liable in damages for an honest mistake or error of judgment in instituting a criminal proceeding against such person. But if he prosecutes without probable cause and with malice he certainly is in no better position than the judge of a court--superior or inferior --who proceeds maliciously and without any jurisdiction .... Public prosecuting officers are entitled to protection against claims growing out of the discharge of their duties done in good faith though with erroneous judgment, but private individuals are entitled to the protection of the law against any conduct of such officers which is at once reckless, malicious, and damaging."
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> Id. at 405-406.

(1972).[44]

The decision of the Seventh Circuit is also consistent with the decisions of other Circuits. The Circuits have consistently applied the "absence of jurisdiction" test established by this Court in Bradley v. Fisher, supra, to determine the applicability of the immunity defense to a prosecuting attorney.[45] Whenever the defense of prosecutorial immunity is raised, the dispositive inquiry becomes whether the allegations are sufficiently removed from judicial (or quasi-judicial activity) to warrant removing the cloak of immunity from defendant prosecutors. See Littleton v. Berbling, 468 F.2d 389, 410-411 (7th Cir., 1972). Petition for Certiorari pending as to Petitioner prosecutor Berbling; Certiorari granted as to other parties. ___ U.S. ___, 93 S. Ct. 1544 (1973).

In Lewis v. Brautigam, 227 F.2d 124 (5th Cir., 1955), the Fifth Circuit held that a

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[44] The Seventh Circuit's opinion is in accord with this Court's decision in Pierson v. Ray, 386 U.S. 547 (1967). In Pierson, supra, this Court held that the common law doctrine of immunity for judicial officers was unimpaired by the Civil Rights Act. Unlike this case, the record in Pierson, supra, was, "barren of any proof or specific allegation that [the] judge played any role in [the] arrests and convictions other than to adjudge petitioners when their cases came before this Court." Id. at 553. In the present case, Respondents have alleged conduct on the part of Petitioners, which constitutes extremely aggravated wrongs and ruthless violations of their Constitutional rights.

[45] The Circuits uniformly agree that prosecutorial immunity, derived from judicial

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state's attorney who ordered two deputy sheriffs to force the plaintiff to be photographed in convict garb at a state prison and attempted to coerce the plaintiff to plead guilty to a criminal charge could be liable for damages under Sections 1983 and 1985:

> ...[A] quasi-judicial officer, such as a prosecuting attorney, who acts outside the scope of his jurisdiction and without authorization of law, cannot

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immunity, was extended to prosecutors as quasi-judicial officers, and is limited to actions within the scope of a prosecutor's duty. See, e.g., Dacey v. New York Lawyers' Ass'n., 423 F.2d 188 (1969), cert. denied, 398 U.S. 929 (1970), Second Circuit; United States ex rel Rauch v. Deutsch, 456 F.2d 1301 (1972), and Bauers v. Heisel, 361 F.2d 581 (1966), cert. denied, 386 U.S. 1021 (1967), Third Circuit; McCray v. Maryland, 456 F.2d 1 (1972), Fourth Circuit; Madison v. Gerstein, 440 F.2d 338 (1971), and Lewis v. Brautigam, 227 F.2d 124 (1955), Fifth Circuit; Hilliard v. Williams, 465 F.2d 1212 (1972), cert. denied, 409 U.S. 1029 (1972), Sixth Circuit; Littleton v. Berbling, 468 F.2d 389 (1972), petition for Certiorari pending as to Petitoner Berbling, Certiorari granted as to other parties, 93 S.Ct. 1544 (1973), and Cawley v. Warren, 216 F.2d 74 (1954), Seventh Circuit; Rhodes v. Houston, 202 F.Supp. 624 (1962), aff'd per curiam, 309 F.2d 959 (1962), cert. denied, 372 U.S. 909 (1963), Eight Circuit; Dodd v. Spokane County, Washington, 393 F.2d 330 (1968), and Robichaud v. Ronan, 351 F.2d 533 (1965), Ninth Circuit; Valdez v. Black, 446 F.2d 1071 (1971), cert. denied 405 U.S. 963 (1972), and Kostal v. Stoner, 292 F.2d 492 (1961), cert. denied, 369 U.S. 868 (1962), rehearing denied, 370 U.S. 920 (1962), Tenth Circuit.

> shelter himself from liability by the plea that he is acting under color of office. Id. at 129.

Recently, the Fifth Circuit reiterated its holding in Lewis, supra, in Guedry v. Ford, 431 F.2d 660 (5th Cir., 1970):

> A prosecuting attorney, when acting in his official capacity is protected by the same immunity in civil cases that is applicable to judges, provided that his acts are within the scope of his jurisdiction and by authorization of law. (citations omitted) Id. at 663.

In so holding, the Court cited analagous decisions by other federal courts with approval.[46]

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[46] The Fifth Circuit opinion in Guedry v. Ford, supra, cited cases from other Circuits with approval: Peek v. Mitchell, 419 F.2d 575 (6th Cir., 1970); Bauers v. Heisel, supra; Friedman v. Younger, 282 F.Supp. 710 (C.D. Calif., 1968); Cf. Peterson v. Stanczak, 48 F.R.D. 426 (N.D. Ill., 1969). Petitioners contend that the Fifth Circuit has, "adopted a slightly stricter twofold standard," than the "jurisdictional test" of the Third Circuit in Bauers v. Heisel, supra, (Petition of Hanrahan, et al., p. 9). The Fifth Circuit's reliance on the Bauers test for its formulation of the test for prosecutorial immunity, refutes Petitioners' attempt to differentiate the tests used by the Third and Fifth Circuits.

In Robichaud v. Ronan, 351 F.2d 533 (9th Cir., 1965), the Ninth Circuit held that a complaint sufficiently stated a civil rights claim for damages against the prosecuting attorneys for an alleged attempt to coerce a confession to a murder. In reinstating the complaint which the District Court had dismissed, the Court of Appeals stated that:

> Section 1983 ... was intended to provide a remedy to persons subjected to '[m]isuse of power, possessed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state law, ...' (citation omitted). Thus, if immunities are broadly granted to state officers without consideration of the nature of their alleged misdeeds and the reason for the immunity, the statute becomes subject to circumvention, if not emasculation.
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> "Prosecutors are not immune from suit under the act simply as a matter of status wholly without regard to the nature of their conduct." (citations omitted)
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> * * *
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> The title of office, quasi-judicial or even judicial, does not of itself, immunize the officer from responsibility for unlawful acts which cannot be said to constitute an integral part of the judicial process.
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> Id. at 536-38.

In reaching its result in Robichaud, supra, the Ninth Circuit relied on the reasoning of the Fifth Circuit in Lewis v. Brautigam, supra:

> In the Lewis case, a state's Attorney, an official prosecutor, was sued, not for acts done in the course of his quasi-

> judicial role, but rather for acts done in his investigative role .... [I]f the State's Attorney ordered and directed the officers to force the plaintiff to plead guilty, then certainly he is no less liable than are those who carried out his instructions .... We agree with the reasoning of the Lewis case, and we must apply the principle here. The trial court must determine the nature of the acts alleged to have been wrongfully committed, for the appellees may have abandoned their 'quasi-judicial' role. If they, so doing, committed acts, or authoritatively directed the commission of acts, which ordinarily are related to police activity as opposed to judicial activity, then the cloak of immunity should not protect them. (citations omitted). Robichaud v. Ronan, supra, at 537.[47]

The Third Circuit has agreed with the other Circuits on the circumstances which will render prosecuting attorneys liable to civil suits. In Bauers v. Heisel, 361 F.2d 581 (1966), the

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[47] Petitioners also attempt to create a distinction between the standards used by the Fifth Circuit in Lewis v. Brautigam, supra, and the Ninth Circuit in Robichaud v. Ronan, supra. This distinction is without foundation, since the Court in Robichaud v. Ronan, supra, at 537, emphasized its reliance on the reasoning used by the Fifth Circuit in Lewis v. Brautigam, supra. Prosecutors are liable for investigative acts under Robichaud, supra, because such acts are not within the scope of a prosecutor's quasi-judicial duty.

Court stated:

> The immunity of a prosecutor, however, is not without limitation; it is not absolute. The immunity of judges, from which the immunity of prosecutors is derivative, does not extend to acts which are clearly outside their jurisdiction. Bradley v. Fisher, supra.
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> * * *
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> The clear-absence-versus-mere-excess of jurisdiction distinction has, in substance, been adopted and applied in Civil Rights Act cases brought against judges and other judicial officers. Robichaud v. Ronan, [supra]; Corsican Productions v. Pitchess, 338 F.2d 441 (C.A. 9, 1964); Spires v. Bottorff, 317 F.2d 273 (C.A. 7, 1963); Lewis v. Brautigam, [supra].
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> Id. at 590-591.[48]

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[48] Gaito v. Strauss, 249 F. Supp. 923 (W.D. Penn. 1966), aff'd on other grounds, 368 F. 2d 787 (3d Cir., 1966) is cited by Petitioners as a rejection of the Robichaud "quasi-judicial/ investigative test." (Petition of Hanrahan, et al., p. 15). Dicta in the District Court did reject the Robichaud formulation, however this view was not adopted by the Third Circuit which affirmed on other grounds. Further, the Third Circuit's approval of both the Robichaud and Lewis opinions in the Bauers case, convincingly repudiates the proposition that the Third, Fifth and Ninth Circuits have employed disparate tests. The Third Circuit recently affirmed its holding in Bauers v. Heisel, supra, in Moore v. Buck, 443 F.2d 25, 26 (3rd Cir., 1971).

The Tenth Circuit has applied the same test rendering prosecutors liable for acts not within the scope of their official duties. Kostal v. Stoner, 292 F.2d 492 (10th Cir., 1961), certiorari denied, 369 U.S. 868 (1962), rehearing denied, 370 U.S. 920 (1962). More recently, the Tenth Circuit has reiterated its adherence to this test used by the other Circuits. Valdez v. Black, 446 F.2d 1071 (1971). In sustaining the trial court's instructions to the jury regarding prosecutorial immunity in a Civil Rights action, the Court of Appeals held:

> The gist of the [immunity] instruction was that the law grants immunity to a district attorney for acts done or ordered by him in the performance of his official duties as an integral part of the judicial process, but that if a district attorney abandons the performance of his official duties and commits or directs the commission of acts which are ordinary police activity instead of judicial activity ... then he is no less liable than those who carry out his instructions. We perceive no error in giving this instruction and believe it to be in line with such cases as Kostal v. Stoner, 292 F.2d 492 (10th Cir., 1961). See also, Dacey v. New York County Lawyers' Assn., 423 F.2d 188 (2d Cir., 1969), cert. denied, 398 U.S. 929; Kauffman v. Moss, 420 F.2d 1270 (3d Cir., 1970), cert denied 400 U.S. 846 (1970); Peek v. Mitchell, 419 F.2d 575 (6th Cir., 1970); Sires v. Cole, 320 F.2d 877 (9th Cir., 1963). Indeed, the instruction thus given squares pretty much with Robichaud v. Ronan, supra, ... In Robichaud, it was stated that when a prosecuting attorney acts in some capacity other than his quasi-judicial capacity,

> then the reason for his immunity (integral relationship between his acts and the judicial process) ceases to exist and if he acts in the role of a policeman, he should be liable as a policeman.
> Id. at 1077-78.

Similarly, in Hilliard v. Williams, 465 F.2d 1212 (6th Cir., 1972), cert. denied, 409 U.S. 1029 (1972), the Sixth Circuit refused to shelter with immunity, a prosecuting attorney who was charged with conduct clearly outside his quasi-judicial capacity. The Court held that the deliberate suppression of favorable evidence by a prosecuting attorney, in violation of plaintiff's constitutional rights, was an act outside his quasi-judicial capacity and beyond the scope of, "duties constituting an integral part of the judicial process." Id. at 1218.

The Eighth Circuit, in Rhodes v. Houston, 202 F. Supp. 624, (1962), aff'd per curiam, 309 F.2d 959 (8th Cir., 1962), cert. denied 372 U.S. 909 (1963), and the Fourth Circuit in McCray v. Maryland, 456 F.2d 1 (4th Cir., 1972), have also held that a prosecuting attorney may be liable in damages under Sections 1983 and 1985 when sued for acts committed in the absence of jurisdiction (Rhodes v. Houston, supra, at 630), or where an official is not called upon to exercise judicial or quasi-judicial discretion (McCray v. Maryland, supra, at 3).[49]

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[49] In McCray v. Maryland, supra, a prisoner brought an action under the Civil Rights Act against a State Court clerk alleging negligence, which impeded the filing of plaintiff's petition for post-conviction relief. In the opinion the Court discussed the doctrine of quasi-judicial immunity. Id. at 3.

The disposition of this case by the Court of Appeals for the Seventh Circuit is in complete uniformity with the treatment of analagous cases in the other Circuits. The Court of Appeals ruled that the District Court had erred in holding that the immunity doctrine requires dismissal of the charges against defendants, without trial. The allegations were sufficient to entitle Respondents to present proof for a factual determination of the nature of the alleged conduct, where defendants were charged with conduct so clearly outside their quasi-judicial capacities.[50]

B. The Court Of Appeals Correctly Held That Petitioners Are Not Entitled To Immunity As a Matter Of Law And The Case Was Properly Remanded Because The Sufficiently Pleaded Allegations Entitled Respondents To Present Their Proofs.

The issue presented regarding the prosecutorial defendants is whether the alleged conduct falls within the realm of their

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[50] Petitioners' proclamation that the Seventh Circuit Court of Appeals had made a factual determination that defendant prosecutors' activity was outside the scope of immunity because it was investigatory is patently incorrect. (Petition of Hanrahan, et al., p. 10) The Seventh Circuit remanded this case for a factual determination of this very issue. The holding merely rejected dismissal of this case before trial.

quasi-judicial duties.[51] The complaints allege that Petitioners Hanrahan and Jalovec, along with 14 police officers, planned the raid and agreed to use excessive force against Hampton and other Respondents, as part of an overall conspiracy to deprive Respondents of their constitutional and statutory rights and to discriminate against them because of their race and political beliefs. Respondents allege that Hanrahan and Jalovec were involved in, "an extensive conspiracy to cause the false arrest and imprisonment of the surviving [Respondents], to institute an unfounded prosecution, and to conceal the truth from the public." Hanrahan and Jalovec are charged with playing primary roles in preparing and publicizing a falsified version of the raid. (See Statement of the Case, supra, p. 5)

These allegations do not merely charge Petitioners with incorrectly executing their authorized prosecutorial duties or with making mistakes or errors in judgment in conducting their quasi-judicial activities. Under any reasonable construction of these complaints, it is clear that they allege acts by defendant state's attorneys which are unrelated to their quasi-judicial duties. There can be no authorization in law for state's attorneys to plan and direct illegal raids as herein described. Planning a raid where deadly force was to be used and permitting the use of deadly force as alleged here, cannot conceivably be related to quasi-judicial

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[51] The Seventh Circuit did not resolve this issue as petitioners suggest. (See fn.50 p.34) For purposes of withstanding a motion to dismiss, these allegations must be assumed to be true.

functions. Likewise, the planning and participation in a concerted effort to cover-up the unlawful nature of the raid cannot be an aspect of these prosecutors' quasi-judicial functions.

The Seventh Circuit stated that "[a]t the very least [the allegations charge] that Hanrahan and Jalovec planned a raid in order to obtain evidence of criminal activity." (emphasis added) (Pet. 7a). The Court of Appeals of course recognized that the allegations against these Petitioners are far broader and far more onerous than claims of excesses in investigatory conduct. The Seventh Circuit stated that these, "complaints may be read to charge that [Petitioners] deliberately planned to have the police officers kill Hampton and Clark." (Pet. 8a) It was only because the Seventh Circuit limited its review with respect to each Respondent to the question of, "whether any sufficient claim for relief has been alleged,"[52] that the Circuit did not construe the more onerous and expansive allegations charging the planning of a murder. These allegations remain in this case with their original force and effect. (See, Statement of the Case, supra, p. 5)

However, even when these allegations are given their most narrow construction, such

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52 Pet. 3a. The Seventh Circuit suggested that Respondents had not urged this reading of these complaints on the Court. Respondents do not understand the source of this comment. To the contrary, Respondents have consistently urged the more severe reading of the allegations.

"investigative" pursuits are nowhere authorized for Petitioners in the statutes of Illinois.[53] The Illinois Revised Statute, Ch. 14, sec. 5, limits the authority of state's attorneys to quasi-judicial acts in the course of proceedings before a court or jury. Petitioners were not "using the power for any of the purposes on whose account it was vested in them," Gregoire v. Biddle, 177 F.2d 579, 581 (2d Cir., 1949), cert. denied, 339 U.S. 949 (1950). Accordingly, the Seventh Circuit correctly ordered that the facts with reference to the alleged charges[54] be more fully developed at trial to determine their truth.[55]

Prosecutors have been afforded immunity for acts in the discharge of their quasi-judicial duties because their primary responsibility is essentially judicial--the

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[53] See Ill. Rev. Stat. reprinted at p. 3 supra, of this brief.

[54] It is axiomatic that the allegations of the complaints and the inferences to be drawn therefrom must be construed most favorably to the Respondents. See, Conley v. Gibson, 355 U.S. 41, 45-46 (1957).

[55] The trial court is the proper forum for the determination of these factual issues, See, e.g., Kauffman v. Moss, supra; Madison v. Purdy, 410 F.2d 99 (5th Cir., 1969); Lewis v. Brautigam, supra; Hilliard v. Williams, supra; Littleton v. Berbling, supra; Dodd v. Spokane County, Washington, supra; Robichaud v. Ronan, supra; Valdez v. Black, supra.

prosecution of the guilty and the protection of the innocent. Griffen v. United States, 295 F. 437, 439-40 (3rd Cir., 1924). In the proper exercise of judicial duties, judicial liability would detract from "principled and fearless decision-making" and destroy the independence of judicial officers by intimidation. Pierson v. Ray, supra, at 554. However, if the integrity of the judiciary is to be preserved, the concepts of "fearless decision-making" and "judicial independence" cannot be subverted so that quasi-judicial officers are free to maliciously misuse their powers in the manner alleged in this case. "The privilege is not a badge or emolument of exalted office but an expression of a policy designed to aid in the effective functioning of government." Barr v. Mateo, supra, at 572-73. Petitioners implore this Court to clothe them with an absolute and unprecedented privilege, which would allow them to deliberately and recklessly violate with impunity the rights guaranteed to all citizens. This Court cannot acquiesce in such a wholesale suspension of constitutional guarantees.

The Civil Rights Statutes were enacted specifically to protect citizens from the kind of oppressive state action which Respondents allege. See, Monroe v. Pape, 365 U.S. 167, 169-70 (1961). "Section 1983 ... was intended to provide a remedy to persons subjected to '[m]isuse of power, possessed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state law,...'" Robichaud v. Ronan, supra, at 536. No person, irrespective of his official position, may, by design or otherwise, subject a citizen to a deprivation of any rights secured by the Constitution or laws of the United States. Dombrowski v. Pfister, 380 U.S. 479 (1965).

The fact that Petitioners are state's attorneys does not relieve them of their fealty to the Constitution and laws of the United States. United States v. McLeod, 385 F.2d 734, 738 n.3 (5th Cir., 1967); Ill. Rev. Stat., ch. 14 §1 (1971); Ill. Rev. Stat., ch. 37 §72.2 (1971). "It does indeed go without saying that an official, who is in fact guilty of using his powers to vent his spleen upon others, or for any other personal motive not connected with the public good, should not escape liability for the injuries he may so cause ...." Gregoire v. Biddle, supra, at 581.

In sum, this is not a case in which a dissatisified litigant is, "sufficiently irritated to institute an action against a [judicial officer] for his judicial acts," ill-conceived, or incorrect judicial judgments. Bradley v. Fisher, supra, at 348. Rather, Respondents seek to redress the heinous injuries they suffered at the hands of Petitioners, whose alleged conduct finds no statutory or constitutional sanction in the prescribed powers and duties of prosecuting attorneys.

The consequences of an unwarranted intrusion into the ongoing factual determination of these allegations by this Court are ominous. It would have the effect of transforming judicial immunity into a prerogative of office, thereby derogating a century of judicial authority concerning the doctrine; stripping the Civil Rights Act of its damage remedy; denying citizens an opportunity to vindicate their federally protected rights; and encouraging public officials to act in violation of the Constitution and the laws of this nation with the guarantee that they will not be liable to the victims of their official misconduct.

II. THE COURT OF APPEALS CORRECTLY APPLIED EXISTING LEGAL STANDARDS, AS ESTABLISHED BY THIS COURT AND FOLLOWED BY THE CIRCUIT COURTS, IN SUSTAINING LIABILITY IN CIVIL CONSPIRACY FOR OFFICERS MULCHRONE, ERVANIAN, MEADE, KUKOWINSKI, PURTELL, KOLUDROVIC, SADUNAS, MELTREGER, SOROSKY, HANRAHAN, AND JALOVEC.

The Court of Appeals held that the facts alleged in Respondents' complaints were sufficient to sustain a cause of action against these Petitioners for the conspiracies subsequent to the actual planning and execution of the raid.[56] This decision is consistent with decisionsof other circuits and in accord with the controlling decisions of this Court.

This Court has held that a cause of action should withstand a motion to dismiss, unless, assuming the facts alleged are true, "it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." Conley v. Gibson, 355 U.S. 41, 45-6 (1957). The Circuit Courts have uniformly applied the standard to make every effort to save a claim in construing the facts alleged in a complaint, especially in a Civil Rights action. Escalera v. New York City Housing Authority, 425 F.2d 853, 857 (2d Cir., 1970), cert. denied, 400 U.S. 853 (1970); Scher v. Board of Education, 424 F.2d 741 (3rd Cir., 1970); Barnes v. Merritt, 376 F.2d 8 (5th Cir., 1967); York v. Story, 324 F.2d 450, 453 (9th Cir., 1963), cert. denied, 376 U.S. 939 (1964). Accordingly, the Seventh Circuit construed Respondents' complaints to allege, "an extensive

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[56] See Statement of the Case, supra, p. 11

conspiracy to cause the false arrest and imprisonment of the surviving plaintiffs, the institution of an unfounded prosecution, and the concealment of the truth from the public." (See Statement of the Case, p. 12.) The complaints clearly support this reading of the facts. They categorically reject Petitioners' illfounded attempt to posit one act committed by them in furtherance of the overall conspiracy, to wit, perjury, as the purpose of the conspiracy itself. (See Petition of the City of Chicago at 8.)[57]

This Court has also determined the circumstances when factual allegations will be legally sufficient to sustain a cause of action under the Civil Rights Act. In Adickes

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[57] Petitioners seek certiorari on the basis of hypothetical and irrelevant questions as to whether perjury constitutes a cause of action under the Civil Rights Act. Perjury is only one act allegedly committed in furtherance of an overall conspiracy to cover-up flagrant police misconduct and to prolong the illegal prosecution of Respondents. The overall conspiracy also allegedly involved other acts such as obstructing and curtailing normal investigation procedures and preparing false laboratory and firearm reports. Petitioners' reliance on Edwards v. Vasel, 349 F. Supp. 164 (E.D. Mo. 1972), aff'd per curiam, 469 F.2d 338 (8th Cir., 1972), is unfounded because the defendant policeman was only accused of perjury and because he had already been exonerated of the same charge in two previous judicial proceedings. It was also found that the police officer was not acting under color of state law, but rather he was found to be acting in his individual capacity. The instant allegations allege actions undertaken under color of law. Id. at 165-66.

v. S. H. Kress & Co., 398 U.S. 177 (1970), the Court sustained a civil conspiracy cause of action in the face of a motion to dismiss by summary judgment. The Court stated: "In this case ... we hold that respondent failed to show conclusively that the fact alleged by petitioner was 'not susceptible' of an interpretation that might give rise to an inference of conspiracy." Id. at 160 n. 22. The Court of Appeals applied this legal standard, effectively rejecting Petitioner's arguments before this Court, when it suggested that to require the proof of causation and injury Petitioners seek would be to require Respondents to plead their evidence. (Pet. 9a) A complex network of substantive facts are alleged which, if assumed to be true, would reasonably permit a jury to infer the existence of the conspiracy alleged. The issues raised by the Petitioners as to causal connection[58]

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[58] Petitioners rely on Duncan v. Nelson, 466 F.2d 939 (7th Cir., 1972), to argue that the indictment of Respondents was a superceding cause which exonerated Petitioners from liability. However, in Duncan, enough evidence existed to convict without the illegal evidence obtained from the police defendant. Petition of City of Chicago, et al., p. 11. Respondents here allege that their detention would not have continued and an indictment would not have been secured without Petitioners' cover-up of the underlying police misconduct. (See Statement of the Case, supra, pp. 13-15.)

The police were also exonerated in Duncan because the superceding judicial action in admitting the illegally-obtained confession into evidence was not forseeable by the police. Respondents here allege Petitioners clearly foresaw and even intended that their cover-up of police misconduct would result in an indictment of the Respondents.

and extent of the injury[59] are also questions for the finder of fact. (Pet. 9a) All these fact questions are at least, "'susceptible of' an interpretation which might give rise to an inference of conspiracy." Adickes v. S. H. Kress & Co., supra, at 160 n.22.[60] The

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[59] Petitioners rely on Symkowski v. Miller, 294 F. Supp. 1214 (E.D. Wis., 1969), to argue that a conspiracy action cannot lie where there is no conviction and no knowing use of the perjured testimony. However, the facts in Symkowski are inapposite. Plaintiff only alleged perjury by the police at a trial in which he was acquitted of criminally reckless conduct after having mistakenly shot one of the policemen. In contrast, Respondents here allege perjury was only one act in furtherance of the overall conspiracy directed toward continuing a blatantly illegal arrest, detention, and prosecution as well as to cover-up the illegal character of the raid.

[60] Petitioners argue that no set facts could prove a conspiracy by these Petitioners on the facts alleged because they cannot be held liable for concealment of facts they do not fully possess. However, the destruction of evidence by the policemen who participated in the raid does not absolve these Petitioners from liability for knowingly obstructing, curtailing, and distorting investigation and analysis of the remaining evidence, or for distorting and falsifying tests of the veracity of the accounts given by the participating policemen. Because the Crime Laboratory and IID Petitioners are alleged to have conspired with Petitioners Hanrahan and Jalovec, the complaints charge that the Crime Laboratory and IID Petitioners knew of the inadequate investigation of the premises and destruction of evidence and the overall plan to conceal the nature of the raid.

Seventh Circuit decision should therefore not be reviewed by this Court. Adickes v. S. H. Kress & Co., Id.

Considering the heinous nature of the sufficiently pleaded facts it was necessary for the Seventh Circuit to sustain the cause of action against these Petitioners. This honorable Court should affirm this decision by denying Certiorari in this case.

III. PETITIONER SEEKS TO AVOID THE APPLICATION OF ILLINOIS TORT LAW INVOKED IN RESPONDENT BREWER'S DIVERSITY CLAIMS, WHICH PROVIDES FOR THE LIABILITY OF PETITIONER CITY OF CHICAGO FOR THE WILLFUL AND WANTON ACTS OF ITS EMPLOYEES.

Apart from her Civil Rights claims, Respondent Brewer sued the several Petitioners for various Illinois common law torts.[60] To do so, she invoked the diversity jurisdiction of the District Court. The Court of Appeals, in reversing the District Court, held that the allegations in the Brewer complaint constituted sufficient causes of action, notwithstanding Petitioner's claims that the Illinois Local Governmental and Governmental Employees Tort Immunity Act (Ill. Rev. Stat. Ch. 85 §§ 1-101 et seq.) would preclude liability for the City of Chicago.

It is clear from the facts of this case that the Illinois Tort Immunity Act does not grant immunity to the City of Chicago.[61]

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[60] See B 59-B 66.

[61] The only relevant situation where a municipality would properly be immune from suit is set forth in §2-109 of the Illinois Local Governmental and Governmental Employees Tort Immunity Act:

> §2-109. Acts or Omissions.
> A local public entity is not liable for an injury resulting from an act or omission of its employee where the employee is not liable.

The pertinent question then becomes when is an employee immune from suit. Later sections of the act make this clear:

(footnote 61 continued on next page)

(footnote 61 continued from previous page)

> §2-201. Determination of policy or exercise of discretion.
> Except as otherwise provided by Statute, a public employee serving in a position involving the determination of policy or the exercise of discretion is not liable for an injury resulting from his act or omission in determining policy when acting in the exercise of such discretion even though abused.
>
> §2-202. Execution or enforcement of law.
> A public employee is not liable for his act or omission in the execution or enforcement of any law unless such act or omission constitutes willful and wanton negligence.
>
> §2-208. Institution or prosecution of judicial or administrative proceeding.
> A public employee is not liable for injury caused by his instituting or prosecuting any judicial or administrative proceeding within the scope of his employment, unless he acts maliciously and without probable cause.

§2-201 does not afford immunity to Petitioner, because Respondents allege acts outside the discretion of any of the City employee Petitioners.

§2-202 does not afford immunity to Petitioner, because Respondents allege 1) acts in violation of the law and 2) willful and wanton misconduct.

§2-208 does not afford immunity to Petitioner, because Respondents allege the employee Petitioners 1) acted outside the scope of their employment and 2) acted maliciously and without probable cause.

(footnote 61 continued on next page)

Due perhaps to a recognition that this is true, no specific section of the Statute is cited in the City of Chicago's Petition which on these facts would grant immunity to the City.[62] Not only the words, but the purpose of the

(footnote 61 continued from previous page)

Since the Tort Immunity Act outlines specific instances where government employees can claim immunity, and since Petitioner does not cite any section which would grant immunity for willful and wanton misconduct outside the scope of one's employment, it follows by the rule of statutory construction, expressio unius est exclusio alterius, that for such conduct there must be liability. The Illinois courts have frequently applied this rule of construction where there is doubt as to the meaning of a statute and where legislative intent cannot be gleaned. See, e.g., Nelson v. Union Wire Rope Corp., 32 Ill. 2d 69, 199 N.E. 2d 769, 786 (1964), and Savings Ass'n v. International Ins. Co., 17 Ill. 2d 609, 612, 162 N.E. 2d 345, 346 (1959).

However, this Court need not rely on this rule of construction in the instant case, since there can be no doubt as to the intention of the Illinois Legislature in passing the Tort Immunity Act. See nn. 63 & 64, infra.

[62] In fact, nowhere in its brief does Petitioner put the words of the Tort Immunity Act before this Court for its consideration.

Tort Immunity Act[62] shows conclusively that the City is totally unjustified in citing

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[63] The purpose of the Act is explained in Luker v. Nelson, 341 F. Supp. 111, 117-118 (N.D. Ill. 1972):

> The Act was adopted in 1965 immediately after the Illinois Supreme Court had eliminated the last vestige of the doctrine of governmental immunity, Harvey v. Clyde Park District, 32 Ill. 2d 60, 203 N.E. 2d 573 (1965), and was intended "to salvage certain protections for public entitles some of which had found themselves subject to suit for the first time." Ritsema-Millgard, Inc. v. Michael J. McDermott & Company, 295 F. Supp. 180 (N.D. Ill. 1969).
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> * * *
>
> ... [T]he language and legislative history of the Governmental Tort Immunity Act indicate that the Illinois legislature intended to confine its scope to suits ... for which municipalities had just become liable .... (emphasis added)

Since before the passage of the Tort Immunity Act, immunity in Illinois was conditioned upon a showing of good faith (See, e.g., Baum, "Tort Liability of Local Governments and Their Employees: An Introduction to the Illinois Immunity Act," 1966 Univ. of Ill. L.F. 981, 1003, and cases cited therein), and given the purpose of the act (as stated in both Luker and Ritsema-Millgard, supra), it follows that the Illinois Legislature did not intend to grant immunity for acts committed in bad faith such as Respondents allege, because for such acts immunity had never before existed.

generally to the Act to support its claim of immunity, since conduct not specifically immunized by the Statute is necessarily subject to claims of liability.[64]

As correctly construed by the Court of Appeals, the relevant Illinois case law does

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64 See, e.g., Comments, "Illinois Tort Claims Act: A New Approach to Municipal Tort Immunity in Illinois," 61 NW.U.L.Rev., 265, 281 (1966-1967), where the author states,

> The Illinois statute ... is based on the proposition that there is no local governmental tort immunity; local governmental units are fully liable. *** Then ... the Illinois act provides as exceptions that many functions of municipal corporations will be immune from suit. ... [I]n Illinois liability is imposed under the same rules applicable in private tort actions, subject to the immunity exceptions provided for in the act. (emphasis added)

The above analysis is convincing, given the purpose of the act (See n.63, supra.). The Illinois Legislature, cognizant that all immunity had been wiped out by the Illinois Supreme Court, carefully set forth specific instances where it determined immunity should continue to exist. The Legislature realized that where it did not clearly and specifically provide for immunity, there would necessarily be liability.

Finally, a recent Illinois Supreme Court decision lends further support for Respondents' position. Reynolds v. City of Tuscola, 48 Ill. 2d 339, 270 N.E. 2d 415, (1971), holds that the Tort Immunity Act must be strictly construed against public defendants.

not grant immunity to Petitioner on the diversity claims.[65] Moreover, this case law, as well as the analysis of it by the Court of Appeals, is completely misstated in the Petition for Certiorari.[66]

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[65] In fact, the Illinois case law strongly suggests liability where bad faith or willful and wanton misconduct is alleged. See, e.g., Young v. Hansen, 118 Ill. App. 2d 1, 8, 249 N.E. 2d 300, 304 (2d District 1969) ("... [T]he immunity afforded by section 2-201 ... extends only to those types of acts not resulting from corrupt or malicious motives.") See, also, Mancha v. Field Museum of Natural History, 5 Ill. App. 3d 699,703, 283 N.E. 2d 899, 902 (1st District 1972); Wexell v. Scott, 2 Ill. App. 3d 646, 647, 276 N.E. 2d 735, 736 (3d District 1971); Woodman v. Litchfield Comm. School Dist. No. 12, 102 Ill. App. 2d 330, 334, 242 N.E. 2d 780, 782 (5th District 1968); and Fustin v. Bd. of Ed. of Comm. Unit Dist. No. 2, 101 Ill. App. 2d 113, 121, 242, N.E. 2d 308, 312 (5th District 1968).

[66] Petitioner characterizes as "unrelated," certain cases cited in the Court of Appeals decision (See Pet. 11a), specifically Mills v. County of Winnebago, 104 Ill. App. 2d 366, 244 N.E. 2d 65 (2d District 1969), Arnolt v. City of Highland Park, 52 Ill. 2d 27, 282 N.E. 2d 144 (1972), and Krieger v. Villege of Carpentersville, 8 Ill. App. 3d 243, 289 N.E. 2d 481 (2d District 1972), even though all three cases deal with the question of municipal tort liability. Recognizing the detrimental effect these decisions would have on its argument, Petitioner also refers to them as "early statements" in the "developing body" of Illinois immunity case law. However, the decision in Mills was rendered in 1969, while Arnolt and Krieger were both decided in 1972. (footnote continued on next page)

The most recent Illinois Supreme Court decision construing the Tort Immunity Act is Arnolt v. City of Highland Park, supra. While not precisely on point, that decision strongly suggests that faced with the facts of the instant case, the Illinois Supreme Court would undoubtedly hold a municipality liable. In Arnolt, plaintiff, on the basis of the Tort Immunity Act, sued the City and a policeman for ordinary negligence and for willful and wanton misconduct. The trial court dismissed all parts of the complaint dealing with ordinary negligence, but let stand all claims alleging willful and wanton misconduct. On plaintiff's appeal, defendants did not even challenge those sections of the complaint concerning willful and wanton misconduct, presumably since they recognized that for such conduct it would be unquestionable that liability would lie. The Supreme Court of Illinois did not make even the faintest suggestion that the trial court should have dismissed those portions of the complaint dealing with willful and wanton misconduct. On the contrary, the Court stated:

(footnote 66 continued from previous page)

Petitioner implies that the Court of Appeals relied on Mills, supra, and suggests that a proper reading of that case actually would support its own position. However, the Court of Appeals did not rely on the Mills decision. That case was cited only to demonstrate to the District Court (which had relied on Mills) that the case was no longer good law.

Petitioner implies that the Court of Appeals relied on Krieger, supra, to decide the scope of the Tort Immunity Act. However, Krieger was cited only because that case explicitely recognized that Mills, supra, had been overruled sub silentio by Arnolt, supra. Also, it is noteworthy that the same district that had decided Mills, recognized in Krieger that Mills was no longer good law.

> [S]ection 2-202 of the Tort Immunity Act provides immunity where the public employee commits an act or omission while actually "in the execution or enforcement of any law" unless such act or omission constitutes willful and wanton negligence. (emphasis added) Id. at 33, 147.

Respondents can only conclude that Petitioner has blatently and intentionally misstated the relevant Illinois law on immunity to avoid the obviously correct decision on this issue by the Court of Appeals.[67]

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[67] It is interesting to note that on the diversity claims, the County of Cook and all the other County defendants have an equal claim to Tort Immunity Act defenses raised by Petitioner City of Chicago. Nevertheless, these other defendants chose not to seek review from the Court of Appeals decision construing the statute. The conclusion is irresistible that these defendants recognized the frivolous nature of the City's defense to the diversity claims.

CONCLUSION

This Court should deny the Petitions for Writs of Certiorari and thereby decline to review the decision of the Court of Appeals of the Seventh Circuit. The Court of Appeals properly recognized that the vindication of critical Civil Rights by the federal courts leaves no room for labeling the alleged conduct of these State's Attorney Petitioners as "quasi-judicial." The complaints allege that these State's Attorneys planned and executed murders and other wholesale deprivations of Civil Rights by using their "quasi-judicial" office as a license for lawless vigilante activity. The allegations clearly justify the conclusion of the Seventh Circuit that, "the prosecutor certainly may not order subordinates to kill or punish a free citizen without a trial," and then invoke the doctrine of "quasi-judicial" immunity to avoid even the possibility of liability. The only just result is for this Court to concur with the Seventh Circuit in the recognition that, "the State's Attorneys' alleged participation in the planning and execution of a raid of this character has no greater claim to complete immunity than the activities of police officers allegedly acting under his direction." Vindication of the rights involved necessitates that the trial go forward in the District Court, so that these Petitioners may be promptly tried along with their police officer subordinates.

The complaints also plainly allege that the seven additional police officer Petitioners and two additional State's Attorneys, "joined with Hanrahan and Jalovec and the 14 participating officers in an extensive conspiracy to cause the false arrest and imprisonment of the surviving plaintiffs, the

institution of an unfounded prosecution and concealment of the truth from the public." These allegations, likewise clearly sufficient on their face, can only be resolved by trial in the District Court.

The allegations of the complaints amply fulfill the pleading requirements of the controlling decisions of this Court and sufficient causes of action are set forth as to all Petitioners. Therefore, this Court should leave the decision of the Court of Appeals undisturbed and allow prompt determination of this most serious of Civil Rights damages actions in the District Court.

Respectfully submitted,

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IBERIA HAMPTON, Administratrix, on behalf of THE ESTATE OF FRED A. HAMPTON, Deceased,

Plaintiff,

-vs-

THE CITY OF CHICAGO; COOK COUNTY, ILLINOIS; EDWARD V. HANRAHAN, RICHARD S. JALOVEC, DET. JAMES DAVIS, SERGEANT DANIEL GROTH, DET. EDWARD CARMODY, DET. JOHN CISZEWSKI, DET. RAY BRODERICK, DET. GEORGE JONES, JOHN MARUSICH, LYNWOOD HARRIS, FRED HOWARD, WILLIAM CORBETT, WILLIAM KELLY, PHILIP JOSEPH, WILLIAM GORMAN, ROBERT HUGHES, JOHN DOE, and OTHERS NOT PRESENTLY KNOWN TO THE PLAINTIFF,

Defendants.

CIVIL ACTION
NO. 70-C-1384
Judge Joseph S. Perry
COMPLAINT FOR DAMAGES

JURISDICTION

1. This is a civil action seeking redress against the defendants for committing acts under color of law, depriving the deceased, FRED A. HAMPTON, as represented by the plaintiff, of his rights under the Constitution and laws of the United States. Specifically, the defendants, while acting in their individual and official capacities as Chicago policemen, state's attorney's police, and as state, county, and city officials did cause the death of said FRED A. HAMPTON, on or about December 4, 1969, depriving him under color of law of his rights, privileges, and

immunities as guaranteed by the First, Fourth, Fifth, Eighth, Ninth, Thirteenth and Fourteenth Amendments to the Constitution of the United States and under 42 U.S.C., Sections 1981, 1982, 1983, 1985, and 1986. Plaintiff seeks further redress for the wrongful death of FRED A. HAMPTON as provided under 42 U.S.C. Sections 1983 and 1988, and Chapter 70 Sec. 70-1, 2, Ill. Rev. Stat.

2. The jurisdiction of this court is further invoked pursuant to 28 U.S.C. Sections 1331 and 1343. The amount in controversy, exclusive of costs and interest, exceeds ten thousand dollars.

PARTIES

A. Plaintiff

3. Plaintiff, the natural and legal mother of the deceased, is the duly appointed administratrix of the decedent's estate. The Plaintiff is a resident of the State of Illinois and a citizen of the United States.

4. The decedent was, at the time of death, twenty-one years of age, a resident of the State of Illinois and a black citizen of the United States.

B. Defendants

5. Defendant HANRAHAN was at all times material to this complaint the duly elected State's Attorney for Cook County, Illinois. Defendant JALOVEC was at all times material to this complaint a duly appointed Assistant State's Attorney for Cook County, Illinois, and in charge of the Special Prosecutions Unit of said State's Attorney's Office.

6. Defendants GROTH, DAVIS, CARMODY, CISZEWSKI,

GORMAN, BRODERICK, JONES, HUGHES, JOSEPH, MARUSICH, HARRIS, HOWARD, CORBETT, and KELLY were, at all times material to this complaint, duly appointed police officers of the City of Chicago, detailed to the Cook County State's Attorney's Office as State's Attorney's Police.

7. Defendant Doe, and others not presently known to the Plaintiff were Chicago policemen, State's Attorney's police, and other state, county and city officials and agents.

8. Plaintiff sues each and all defendants in both their individual and official capacities.

NOTICE

9. The following Notice was sent in accordance with Ill. Rev. Stat. ch. 85, Section 8-102:

TO: Edward V. Hanrahan
Cook County State's Attorney

Matthew J. Danaher
Clerk, Cook County, Illinois

City of Chicago
Corporation Counsel

John C. Marcin
City Clerk, City of Chicago

You are hereby notified that a cause of action has accrued against you for personal injuries sustained, arising out of an accident, and following is a statement relating to the occurrence:

(1) The name of the person to whom a cause of action has accrued is Mrs. Iberia Hampton, as Administratrix of the Estate of Fred Hampton.

(2) The name and address of the person who was injured is Fred Hampton, 2337 W. Monroe Street, Chicago,

Illinois.

(3) The accident and injuries to said person occurred on or about towit: the 4th day of December, 1969, at the hour of 4:45 a.m., at or inside the vicinity of the apartment at 2337 W. Monroe Street, Chicago, Illinois.

(4) Statement of the accident: Mr. Hampton suffered gunshot wounds from which he eventually died. Said wounds were inflicted by Cook County State's Attorney's police.

(5) The name and address of the injured person's physician: Death certificate signed by E. J. Shalgos, M.D., Cook County Coroner's Office.

(6) The name and address of hospital where injured party was attended: Dead on arrival at Cook County Hospital.

COUNT ONE

10. At some time on or prior to the morning of December 4, 1969, defendants HANRAHAN, JALOVEC, GROTH, DAVIS, CARMODY, CISZEWSKI, GORMAN, JONES, HUGHES, JOSEPH, MARUSICH, HARRIS, HOWARD, CORBETT, KELLY, BRODERICK, DOE, and others not presently known to the Plaintiff did meet and plan a raid upon the apartment located at 2337 West Monroe, Chicago, Illinois, in which the deceased, FRED HAMPTON, did reside.

11. At approximately 4:00 a.m. on December 4, 1969, Chicago policemen, upon orders from the defendants, did cordon off the area surrounding FRED HAMPTON'S residence from the public.

12. At approximately 4:15 a.m. on December 4, 1969, Defendants GROTH, DAVIS, CARMODY, CISZEWSKI, JONES, GORMAN, HUGHES, BRODERICK, MARUSICH, HARRIS, HOWARD, CORBETT, KELLY, JOSEPH, and others not presently known to the Plaintiff, did, under color of state search warrant and otherwise under color of law, illegally enter the residence of FRED HAMPTON.

13. Said Defendants did unlawfully fire without provocation over ninety bullets from machine guns, pistols, shotguns, and carbines into the general living quarters of FRED HAMPTON, while executing said illegal raid.

14. The deceased, FRED HAMPTON, was in bed in a bedroom when the defendants executed this illegal raid.

15. Said defendants did fire with automatic machine guns, pistols, and shotguns over thirty bullets into FRED HAMPTON'S bedroom while he lay in bed.

16. Several bullets hit FRED HAMPTON while he lay in bed, with at least two piercing the skull, one grazing the right arm, and one entering the left shoulder.

17. The use of excessive and deadly force without legal justification by said Defendants did grievously and critically wound FRED HAMPTON. Said wounds did ultimately cause the death of FRED HAMPTON.

18. Said Defendants, without knowing whether the decedent, FRED HAMPTON, was still alive or dead, did drag him from his bed to the dining room floor.

19. Said defendants did illegally search and ransack deceased's apartment, stealing money and personal property from the apartment, damaging and destroying his personal property, and spoliating the evidence of their illegal acts.

20. Defendants HANRAHAN, JALOVEC, DAVIS, GROTH, JONES, CARMODY, CISZEWSKI, GORMAN, HUGHES, BRODERICK, KELLY, JOSEPH, CORBETT, MANUSICH, HARRIS, HOWARD and others not presently known to the Plaintiff, did willfully, maliciously, and with specific intent plan and execute the acts as alleged in Paragraphs 10-19. These acts did directly and proximately cause the serious injury and death of FRED HAMPTON. This unjustifiable use of excessive and deadly force by these defendants, acting under color of law, did deprive the deceased of his rights, privileges, and immunities as guaranteed by the Constitution and laws of the United States, specifically 42 U.S.C. 1981 et seq.

21. The unlawful and sadistic acts of said defendants, perpetrated upon FRED HAMPTON, Chairman of the Illinois Black Panther Party, because of his beliefs, thoughts, words, and associations, deprived the deceased of his rights to free speech, expression, and assembly as guaranteed by the First Amendment to the Constitution of the United States.

22. FRED HAMPTON was deprived of his right to be free from illegal searches and seizures as guaranteed by the Fourth Amendment to the Constitution of the United States by the illegal entry and pillaging of his residence by said defendants.

23. FRED HAMPTON was deprived of his right to life, liberty and property as guaranteed by the Fifth and Fourteenth Amendments to the Constitution of the United States by his illegal and summary execution by said defendants, which not only denied FRED HAMPTON due process of law

but flaunted said denial to create fear and terror in the Black Community of Chicago.

24. FRED HAMPTON was deprived of his right to be free from cruel and unusual punishment as guaranteed by the Eighth Amendment to the Consitution of the United States, by the defendants' brutal and unjustifiable killing of said deceased.

25. FRED HAMPTON was deprived of his right to privacy as guaranteed by the Ninth Amendment to the Constitution of the United States by said defendants' illegal entry and unjustifiable use of deadly and excessive force.

26. The deprivation of rights guaranteed to the deceased by the First, Fourth, Fifth, Eighth and Ninth Amendments are protected against state action by the due process clause of the Fourteenth Amendment.

27. These acts perpetrated on FRED HAMPTON as a black citizen were so contrary to all Constitutional standards of humanity that he was thereby deprived of his right to be free from badges and indicia of slavery as guaranteed by the Thirteenth Amendment to the Constitution of the United States.

28. FRED HAMPTON was deprived of his right to equal protection of the laws as guaranteed by the Fourteenth Amendment to the Constitution of the United States as said defendants under color of law did execute the deceased because of his race and his political beliefs.

WHEREFORE Plaintiff, on behalf of the estate of FRED HAMPTON, demands judgment against each defendant named in Count One, jointly and severally, in the amount

of $250,000, compensatory damages and further demands punitive damages against each defendant, jointly and severally in the amount of $500,000, plus the cost of this action, attorney's fees, and such other relief as to this court seems just, proper, and equitable.

COUNT TWO

29. Plaintiff alleges and realleges paragraphs 1-28 with the same force and effect as if fully set forth herein.

30. Defendants DAVIS, GROTH, CARMODY, CISZEWSKI, JONES, HUGHES, GORMAN, KELLY, JOSEPH, CORBETT, MARUSICH, HARRIS, HOWARD, BRODERICK and others not presently known to the Plaintiff did negligently use deadly and excessive force under color of law and by these illegal acts did directly and proximately cause serious injury and death to FRED HAMPTON, depriving him of his rights, privileges, and immunities under the Constitution and laws of the United States, specifically 42 U.S.C. Sections 1981 et. seq.

31. Defendants HANRAHAN, JALOVEC, GROTH, DOE, and others not presently known to the Plaintiff, acting under color of law, did negligently plan and create a situation where deadly and excessive force was likely to be used and did negligently allow this deadly and excessive force to be used, proximately and directly causing serious injury and death to FRED HAMPTON, depriving him of his rights, privileges and immunities under the Constitution and laws of the United States, specifically 42 U.S.C. Sections 1981 et seq.

WHEREFORE the Plaintiff, on behalf of the estate of FRED HAMPTON demands judgment against each defendant named

in Count Two, jointly and severally, in the amount of $250,000 compensatory damages and further demands punitive damages against each defendant, jointly and severally, in the amount of $500,000 plus the cost of this action, attorney's fees, and such other relief as to this court seems just and equitable.

COUNT THREE

32. Plaintiff alleges and realleges paragraphs 1-31 with the same force and effect as if fully set forth herein.

33. Defendants HANRAHAN, JALOVEC, GROTH, DAVIS, CISZEWSKI, GORMAN, BRODERICK, HUGHES, JONES, KELLY, JOSEPH, CORBETT, MARUSICH, HARRIS, HOWARD, CARMODY, and other defendants not presently known to the Plaintiff, prior to the illegal raid of December 4, 1969, upon FRED HAMPTON'S residence did meet and plan this illegal raid and did agree and conspire together to use excessive and deadly force upon the deceased and others in the residence. Each defendant did agree to and did plan this raid with the knowledge and purpose that it would deprive FRED HAMPTON of his rights, privileges and immunities as guaranteed under the Constitution and laws of the United States, specifically 42 U.S.C. 1983 and 1985. They did purposefully plan, while acting under the guise and color of state law, statutes, and customs, to discriminate against the deceased because of his belonging to the black race and because of his political beliefs. Acting in accordance with this plan and conspiracy, the defendants did execute this illegal raid and did use brutal and excessive

force. This use of deadly and excessive force by the defendants did proximately cause the serious injury and death of Fred Hampton, depriving the deceased of his rights, privileges, and immunities, while acting under color of state law, customs, and statutes. This conspiracy and these overt acts of the defendants did proximately cause FRED HAMPTON'S injury and death, depriving him of the most fundamental Constitutional right, his right to live.

WHEREFORE the Plaintiff, on behalf of the estate of FRED HAMPTON demands judgment against each Defendant named in this count, jointly and severally in the amount of $250,000 compensatory damages and further demands punitive damages against each Defendant, jointly and severally for the amount of $500,000, plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper and equitable.

COUNT FOUR

34. Plaintiff alleges and realleges paragraphs 1-33 with the same force and effect as if fully set forth herein.

35. Defendants HANRAHAN, JALOVEC, GROTH, DAVIS, CISZEWSKI, GORMAN, CARMODY, JONES, HUGHES, KELLY, BRODERICK, JOSEPH, CORBETT, HARRIS, MARUSICH, HOWARD, and others not presently known to the Plaintiff did have knowledge of the conspiracy to deprive FRED HAMPTON of his rights, privileges, and immunities as guaranteed by the Constitution and laws of the United States, prior to the execution of this illegal raid. These defendants did have the power to prevent the committing of these illegal acts against the deceased and did neglect and refuse to prevent these illegal acts. These illegal

acts were committed during the raid upon the residence of FRED HAMPTON and did proximately cause his death, contrary to the provisions of 42 U.S.C. 1986.

WHEREFORE Plaintiff, on behalf of the estate and next of [illegible]D HAMPTON, demands judgment in the amount of $5,000.

COUNT FIVE

36. Plaintiff alleges and realleges paragraphs 1-35 with the same force and effect as if fully stated herein.

37. Defendant City of Chicago was and still is the statutory public employer of Defendants GROTH, DAVIS, JONES, CARMODY, BRODERICK, GORMAN, HUGHES, KELLY, MARUSICH, CISZEWSKI, JOSEPH, CORBETT, HARRIS, HOWARD, and others not presently known to the Plaintiff.

38. Defendant City of Chicago did fail to properly hire, train and supervise said Defendant Police Officers who were at the time of the illegal raid assigned to the Cook County State's Attorney's Office.

39. Defendant City of Chicago had consistently failed to discipline officers who had used deadly and excessive force against citizens in the past. Said failure to so discipline past offenders of the Chicago Police Department was known to the defendants and did give said Defendant police officers license to use excessive and deadly force against the deceased, FRED HAMPTON, without fear of punishment.

40. The raid upon the residence of FRED HAMPTON, on the morning of December 4, 1969, by the duly appointed Defendant Chicago police officers did proximately cause the death of

FRED HAMPTON and did deprive him of his right to full and equal benefit of all laws; as this raid was illegal and performed in a discriminatory and racist manner against the deceased, a black man, contrary to the provision of 42 U.S.C. 1981 and 1983.

41. Defendant City of Chicago's grossly negligent failure to properly hire, train and supervise said defendants and said Defendant's negligent failure to properly discipline past police offenders did directly and proximately cause the serious injury and death of FRED HAMPTON.

WHEREFORE Plaintiff, on behalf of the estate of FRED HAMPTON, demands judgment against Defendant City of Chicago in the amount of $500,000 compensatory damages, plus the cost of this action, attorney's fees, and such other relief as to this court seems just and equitable.

COUNT SIX

42. Plaintiff alleges and realleges paragraphs 1-41 with the same force and effect as if fully stated herein.

43. Plaintiff's remedy under the Constitution and laws of the United States is inadequate and deficient; therefore, under the authority of 42 U.S.C. Section 1983 and 1988, Plaintiff seeks further remedy under state law, Constitution and statute, specifically Ch. 70 Sec. 1, 2 Ill. Rev. Stat.

44. Decedent FRED HAMPTON was and is survived by his legal and natural father, FRANCIS HAMPTON, and his legal and natural mother, Mrs. IBERIA HAMPTON.

45. Decedent was and is survived by his natural and legal brother, WILLIAM HAMPTON, and his natural and legal sister, DELORES HAMPTON.

46. Decedent FRED HAMPTON was and is survived by his then unborn child who was born on December 29, 1969, and is named FREDRICK JAKE JOHNSON.

47. Plaintiff-Administratrix is the duly appointed legal representative of the estate of FRED HAMPTON.

48. Defendants HANRAHAN, JALOVEC, DAVIS, CARNODY, GORMAN, GROTH, BRODERICK, CISZEWSKI, KELLY, JOSEPH, CORBETT, MARUSICH, HARRIS, HOWARD, HUGHES, JONES, and others not presently known to the Plaintiff did, by their wrongful acts as alleged in paragraphs 1-41 deprive the deceased of his rights, privileges, and immunities under the Constitution and laws of the United States and did by their willful, intentional and negligent acts proximately cause the wrongful death of FRED HAMPTON.

49. Decedent FRED HAMPTON was officially pronounced dead on December 4, 1969.

50. Decedent FRED HAMPTON exercised due care at all times material to this complaint.

51. Each and every beneficiary and next of kin of FRED HAMPTON exercised due care at all times material to this complaint.

52. FRANCIS HAMPTON, IBERIA HAMPTON, WILLIAM HAMPTON, DELORES HAMPTON, and FREDRICK JAKE JOHNSON and each of them have lost and will continue to lose pecuniary support as a proximate result of the illegal acts of the defendants and because of the wrongful death of FRED HAMPTON.

WHEREFORE Plaintiff demands judgment against each defendant named in Count Six, jointly and severally for pecuniary damages in the amount of $500,000.

COUNT SEVEN

53. Plaintiff alleges and realleges paragraphs 1-52 with the same force and effect as if fully set forth herein.

54. Defendant City of Chicago was and is a duly incorporated municipality under the Constitution, laws and statutes of the state of Illinois.

55. Defendant Cook County, Illinois, is a duly incorporated municipal county under the laws, statutes, and Constitution of the state of Illinois.

56. Defendants GROTH, DAVIS, CISZEWSKI, CARMODY, BRODERICK, GORMAN, HUGHES, JONES, HOWARD, KELLY, JOSEPH, CORBETT, MARUSICH, HARRIS, and others not presently known to the Plaintiff were duly employed police officers for the City of Chicago at all times material to this complaint.

57. Defendants HANRAHAN, JALOVEC, and others not presently known to the Plaintiff were duly elected and appointed officials of Cook County and were in the employment of this County.

58. At all times material to this complaint said defendant City and County Officials were acting within the scope of employment of said City and County and were acting as agents and employees thereby. While acting in this capacity said defendants did commit illegal acts as alleged in paragraphs 1-52. These wrongful acts were committed negligently by said defendants and did proximately and directly cause the death of FRED HAMPTON.

WHEREFORE Plaintiff, on behalf of the estate of FRED HAMPTON, demands judgment against Defendant City of Chicago and Defendant Cook County, Illinois, jointly and severally in the amount of $500,000 compensatory damages, plus the costs of this action, attorney's fees, and such other relief as seems just, proper, and equitable.

Respectfully submitted,

Dennis Cunningham

Jeffrey Haas

Francis E. Andrew

Plaintiff demands trial by jury.

Dennis Cunningham

Jeffrey Haas

Francis E. Andrew

DENNIS CUNNINGHAM
JEFFREY HAAS
FRANCIS E. ANDREW
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2156 North Halsted Street
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Center for Constitutional Rights
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New York, New York 10036

FILED
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IN THE
UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FANNIE MAE CLARK, Administratrix of the Estate of MARK CLARK, deceased,	)	
Plaintiff	)	
vs.	)	NO. _____
THE CITY OF CHICAGO, a Municipal Corporation, EDWARD V. HANRAHAN, State's Attorney of Cook County, Police Officers: DANIEL R. GROTH, JAMES DAVIS, RAYMOND D. BRODERICK, EDWARD CARMODY, JOHN CICZEWSKI, WILLIAM T. CORBET, JOSEPH F. GORMAN, LYNWOOD HARRIS, FRED HOWARD, ROBERT HUGHES, GEORGE JONES, WILLIAM T. KELLY, PHILIP JOSEPH, JOHN MARUISCH; JOHN DOE and others presently unknown to Plaintiff,	)	
Defendants	)	

COMPLAINT

JURISDICTION

Jurisdiction of this Court is invoked under 28 U. S. C. 1331 and 1334, and 42 U. S. C. 1981, 1983, 1985 and 1986. Jurisdiction is further invoked under the First, Fourth, Fifth, Eighth, Ninth, Thirteenth and Fourteenth Amendments to the Constitution of the United States. Plaintiff brings this action to vindicate rights protected by the aforementioned Amendments to the United States Constitution. The amount in controversy, exclusive of costs and interest, exceeds Ten Thousand ($10, 000) Dollars.

FOR A FIRST CLAIM

Now comes FANNIE MAE CLARK, Administratrix of the Estate of MARK CLARK, Deceased, by her Attorney, CORNELIUS E. TOOLE, and complaining of the Defendants, CITY OF CHICAGO, EDWARD V. HANRAHAN and all Defendants, alleges as follows:

1. That on or about the 26th day of May, 1970, the Plaintiff was duly appointed Administratrix of the Estate of MARK CLARK, Deceased, hereinafter referred to as the Deceased, by the Probate Division of Cook County, Illinois, and duly qualified for said office, and ever since has been, and is now administrator, pursuant to and as authorized by Chapter 70 of the Illinois Revised Statutes.

2. That said Deceased left him surviving no widow and no child or children of a predeceased child or children, but left him surviving his mother, FANNIE MAE CLARK, and his brothers and sisters, WILLIAM CLARK, JR., SAMUEL CLARK, JAMES CLARK, MATTHEW CLARK, GEORGE CLARK, CHARLES CLARK, JOSEPH CLARK, LUKE CLARK,

JOHN THOMAS CLARK, ROBERT CLARK, ELLA MAE MARION, PATRICIA CLARK, ELNER CLARK, GLORIA JACKSON, GERTRUDE CLARK and ROSE MARIE CLARK, as his sole and only heirs at law, all of whom are still living and by reason of the death of the said deceased, the said persons hereinbefore named have been deprived of future estate and have been deprived of his companionship, relationship, love and affection, and to further incur expenses for his funeral.

3. Plaintiff and the heirs of the deceased hereinabove referred to were and still are citizens of the United States, and are residents of the State of Illinois; and that the Deceased was at the time of and preceding his death a citizen of the United States, residing in the State of Illinois

4. During all times mentioned herein, the defendant, EDWARD V. HANRAHAN, hereinafter referred to as defendant HANRAHAN, was the duly elected State's Attorney of Cook County, Illinois. Defendant Officers DANIEL R. GROTH, JAMES DAVIS, RAYMOND D. BRODERICK, EDWARD CARMODY, JOHN CICZEWSKI, WILLIAM T. CORBET, JOSEPH F. GORMAN, LYNWOOD HARRIS, FRED HOWARD, ROBERT HUGHES, GEORGE JONES, WILLIAM T. KELLY, PHILIP JOSEPH, JOHN MARUISCH, hereinafter referred to as Defendants, GROTH, DAVIS, BRODERICK, CARMODY, CICZEWSKI, CORBET, GORMAN, HARRIS, HOWARD, HUGHES, JONES, KELLY, JOSEPH, and MARUISCH, were duly appointed, qualified and acting police officers employed by the Police Department of the defendant.

CITY OF CHICAGO, hereinafter referred to as Defendant CITY, a municipal corporation of the State of Illinois, and were agents of said defendant CITY, acting in the course of their employment and engaged in the performance of their duties as police officers in the City of Chicago and were acting under color of statutes, ordinances, regulations, customs and usages of the City of Chicago, County of Cook and State of Illinois

5. On or about December 4, 1969, in or about the vicinity of 2337 West Monroe, the defendants GROTH, DAVIS, BRODERICK CARMODY, CICZEWSKI, CORBET, GORMAN, HARRIS, HOWARD, HUGHES, JONES, KELLY, JOSEPH, MARUISCH, shot and killed the deceased, MARK CLARK, without any authority in law.

6. At said time and place, the defendants referred to in the Complaint, or one or more of them, denied the deceased due process of law by imposing summary punishment by death upon the deceased.

WHEREFORE, the plaintiff, as Administratrix of the Estate of MARK CLARK and on behalf of said Estate, claims damage in the sum of THREE MILLION AND NO/100 DOLLARS ($3,000,000.00) against the defendants, CITY OF CHICAGO, HANRAHAN, GROTH, DAVIS, BRODERICK, CARMODY, CICZEWSKI, CORBET, GORMAN, HARRIS, HOWARD, HUGHES, JONES, KELLY, JOSEPH, and MARUISCH, jointly and severally, together with costs herein.

1981

FOR A SECOND CLAIM

Plaintiff realleges paragraphs One through Six as contained and set forth in the first claim and incorporates the allegations as paragraphs one through six of this second claim.

7. The deceased was non-white and Black.

8. At the time and place hereinabove alleged, the defendants, or more or one of them, deprived the deceased of and denied to him the full and equal benefit of all laws and proceedings for the security of persons as is enjoyed by white citizens, and to be subject to like punishment of every kind and no other, by imposing summary punishment by death upon the deceased.

WHEREFORE, the Plaintiff, as Administratrix of the Estate of MARK CLARK, and on behalf of the Estate, claims damages in the sum of THREE MILLION and NO/100 DOLLARS ($3,000,000.00) against each defendant jointly and severally, together with costs herein.

FOR A THIRD CLAIM

Plaintiff realleges paragraphs One through Six of the first claim as set forth hereinabove and incorporates the allegations as paragraphs one through six of this third claim.

7. At the time and place alleged hereinabove, the defendants or two or more of them, conspired to deprive the Deceased of the equal protection of the laws, by imposing summary punishment by death upon the deceased thereby denying to him his right to live and not to be deprived

of his life without due process of law and discriminating against the deceased in the treatment and method of apprehending a person for a supposed offense against the laws.

WHEREFORE, the Plaintiff, as Administratrix of the Estate of MARK CLARK, and on behalf of the Estate, claims damages in the sum of THREE MILLION and NO/100 DOLLARS ($3,000,000.00) against each defendant jointly and severally, together with costs herein.

FOR A FOURTH CLAIM

Plaintiff realleges paragraphs One through Six of the first claim as set forth hereinabove and incorporates the allegations as paragraphs one through six of this fourth claim.

7. On or about December 4, 1959, the deceased was in the vicinity of 2337 West Monroe, Chicago, Cook County, Illinois.

8. At the time and place, the deceased was peaceable and not violating any Statute or Ordinance.

9. The defendants on or about December 4, 1959 planned a raid on an apartment at 2337 West Monroe.

10. The defendant Officers of the City of Chicago, under color of a search Warrant illegally entered 2337 West Monroe, Chicago Cook County, Illinois.

11. At the time and place the deceased had not committed any felony

12. The defendant City of Chicago Officers referred herein, without provocation fired bullets from machine guns and shotguns, revolvers and carbines in the building at 2337 West Monroe in executing the planned

illegal raid.

13. several bullets from the weapons of the defendant officers penetrated the body of the deceased wounded him and ultimately caused his death.

14. The death of the deceased was the direct and proximate result of the entry and penetration of a bullet or bullets fired at him as aforedescribed into his body.

15. Without admitting its applicability to the cause of action stated herein, the plaintiff says that on May 28, 1970, a notice in words and figures as per copy attached hereto as Exhibit B, was served upon the proper officials of the City of Chicago.

WHEREFORE, the Plaintiff, as Administratrix of the Estate of MARK CLARK, and on behalf of the Estate, claims damages in the sum of THREE MILLION and NO/100 DOLLARS ($3,000,000.00) against each defendant jointly and severally, together with costs herein.

FOR A FIFTH CLAIM

Plaintiff realleges paragraph One through Five of the first claim as set forth hereinabove and incorporates the allegations as paragraphs one through five of this fifth claim.

6. Plaintiff realleges paragraphs six through fifteen of her fourth claim as set forth hereinabove and incorporates the allegations as paragraphs six through fifteen of this fifth claim.

16. That the Defendant HANRAHAN, and or his Assistant State's Attorney did with the defendant officers of the City of Chicago, wilfully, maliciously and with specific intent, plan and execute the acts as alleged herein.

17. The acts proximately and directly caused the injury and death of the deceased.

18. The unjustifiable use of excessive force by the defendants herein acting under color of law, deprived the deceased of his rights, privileges and immunities as guaranteed by the Constitution of the United States and the laws therein.

19. The joint and several acts of defendants, as hereinbefore alleged, were the result of a tacit understanding on the part of defendants to treat the deceased as they did because deceased was Black, and was to deny to the deceased the equal protection and due process of the law.

20. That the death of the deceased was the direct and proximate result of the entry and penetration of a bullet or bullets fired at him into his body.

21. That at all times pertinent hereto, the deceased was not engaged in any wilful and wanton conduct proximately causing the death of the deceased.

WHEREFORE, the Plaintiff, FANNIE MAE CLARK, as Administratrix

of the Estate of the Deceased, MARK CLARK, and on behalf of the Estate claims damages in the sum of THREE MILLION ($3,000,000) DOLLARS against each defendant jointly and severally, together with costs herein.

CORNELIUS E. TOOLE, General Counsel
Legal Office of the Chicago Metropolitan
Council, National Association for the
Advancement of Colored People,
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Chicago, Illinois 60603
346-3035

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

VERLINA BREWER, by her next friend, WILLIAM R. BREWER,

Plaintiff,

-vs-

THE CITY OF CHICAGO, a Municipal Corporation; COOK COUNTY, ILLINOIS, a Local Corporation; EDWARD V. HANRAHAN; RICHARD S. JALOVEC; DANIEL GROTH, RAY BRODERICK, EDWARD CARMODY, JOHN CHEKWSKI, WILLIAM CORBETT, JAMES DAVIS, JOSEPH GORMAN, LYNWOOD HARRIS, FRED HOWARD, ROBERT HUGHES, GEORGE JONES, PHILIP JOSEPH, WILLIAM KELLY, JOHN MARUSICH; RICHARD J. DALEY, Mayor of the City of Chicago; JAMES B. CONLISK, Superintendent, Chicago Police Department; JOHN MULCHRONE; HARRY ERVANIAN; SGT. JOHN MEADE, LT. ROBERT KUKOWINSKI; JAMES MELTREGER, SHELDON SOROSKY, DAVID FURTELL, JOHN SAIKUMAS, CHARLES KOLUDROVIC, JAMES DOE, RICHARD ROE, and OTHERS NOT PRESENTLY KNOWN TO THE PLAINTIFF,

Defendants.

CIVIL ACTION NO. _____

COMPLAINT FOR DAMAGES

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JURISDICTION

1. This is a civil action seeking redress against the defendants for committing acts under color of law, depriving the plaintiff of her rights under the Constitution and laws of the United States. Specifically, some or all of the defendants, while acting in their individual and official capacities as Chicago policemen, state's attorney's police, and as state, county, and city officials, on December 4, 1969, assaulted the plaintiff with deadly weapons, caused serious bodily injury

to her, and thereafter imprisoned her falsely and prosecuted her wrongfully and maliciously in an attempt to conceal the true nature of the occurrences of December 4, 1969. By these acts committed under color of state law, the defendants deprived the plaintiff of her rights, privileges and immunities as guaranteed by the First, Fourth, Eighth, Ninth, Thirteenth and Fourteenth Amendments to the Constitution of the United States and protected under 42 U.S.C., Sections 1981, 1982, 1983, 1985, 1986, and 1988.

2. The jurisdiction of this Court is further invoked pursuant to 28 U.S.C., Sections 1331 and 1343. The amount in controversy, exclusive of interest and costs, exceeds the sum or value of ten thousand dollars.

3. The jurisdiction of this Court is further invoked pursuant to 28 U.S.C., Section 1332. Plaintiff is a citizen of the State of Michigan, Defendant CITY OF CHICAGO is a municipal corporation and Defendant COOK COUNTY, ILLINOIS is a local public corporation, incorporated, formed and operating under the laws of the State of Illinois and exercising their governmental functions solely in Illinois. All other defendants are citizens of the State of Illinois. The amount in controversy, exclusive of interest and costs, exceeds the sum or value of ten thousand dollars.

4. A copy of notice sent in accordance with Illinois Revised Statutes, Ch. 85, Section 8-102 is attached hereto as Appendix A and hereby made a part of this complaint.

PARTIES

A. Plaintiff

5. Plaintiff VERLINA BREWER is a resident and citizen of the City of Ann Arbor, the State of Michigan, and the United States. Plaintiff BREWER, a black female, is eighteen years of age, and is suing by her next friend, WILLIAM R. BREWER, a citizen of the State of Michigan. At the time of the raid hereinafter alleged, and at the inception of the conspiracy that was allegedly formed to suppress the true nature of that raid, Plaintiff was a member of the Black Panther Party.

B. Defendants

6. Defendant HANRAHAN was at all times material to this complaint the duly elected State's Attorney for Cook County, Illinois. Defendant HANRAHAN had supervisory authority over all Assistant State's Attorneys in the Office of the State's Attorney for Cook County, including defendants JALOVEC, MELTREGER, and SOROSKY, and supervisory authority over all officers of the Chicago Police Department assigned to the Office of the State's Attorney for Cook County, including defendants GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, and MARUSICH.

7. Defendant JALOVEC was at all times material to the complaint a duly appointed Assistant State's Attorney for Cook County, Illinois, and in charge of the Special Prosecutions Unit of said State's Attorney's office. Defendant JALOVEC was the immediate supervisor of defendant GROTH and the police officers in Groth's unit, and he represented some

or all of those defendants in the purported investigation of this matter by the Internal Inspections Division of the Chicago Police Department.

8. Defendants GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY and MARUSICH were, at all times material to this complaint, duly appointed police officers of the City of Chicago, detailed to and/or on detached service with the Cook County State's Attorney's Office as State's Attorney's Police.

9. Defendant DALEY, at all times material to this complaint, was the duly elected Mayor of the City of Chicago, State of Illinois. In that capacity, he had appointed Defendant CONLISK to serve, subject to Defendant DALEY's continuing approval, as Superintendent of Police. Through his control over the office of Superintendent of Police, Defendant DALEY, at all times material to this complaint, had the power to direct the activities of the Chicago Police Department and its employees.

10. Defendant CONLISK, at all times material to this complaint, was the duly appointed Superintendent and Chief Executive Officer of the Chicago Police Department. In that capacity, he was responsible for the general management and control of the police department and had full and complete authority to administer the department, including the operations of the Internal Inspections Division and the Crime Laboratory of the Chicago Police Department.

11. Defendant MULCHROHE was, at all times material to this complaint,

a duly appointed Deputy Superintendent of the Chicago Police Department with supervisory responsibility for the Internal Inspections Division of the Chicago Police Department.

12. Defendant ERVANIAN, at all times material to this complaint, was a Captain of the Chicago Police Department and Director of the Internal Inspections Department of the Chicago Police Department.

13. Defendant MEADE, at all times material to this complaint, was a duly appointed Sergeant in the employ of the Chicago Police Department. He was assigned special responsibility for the investigation by the Internal Inspections Division of the raid staged on December 4, 1969, on the apartment occupied by plaintiffs.

14. Defendant KUKOWINSKI, at all times material to this complaint, was a Lieutenant of the Chicago Police Department and the head of the Excessive Force Unit of the Internal Inspections Division of the Chicago Police Department.

15. Defendants SOROSKY and MELTREGER, at all times material to this complaint, were duly appointed Assistant State's Attorneys for Cook County, Illinois. Both were assigned to the Special Prosecutions Unit under the supervision of Defendant JALOVEC, and both represented Defendant State's Attorney's police in the purported investigation of this matter by the Internal Inspections Division of the Chicago Police Department.

16. Defendant PURTELL, at all times material to this complaint, was a duly appointed official in the Chicago Police Department and Director of the Crime Laboratory of the Chicago Police Department.

17. Defendant SADUNAS, at all times material to this complaint, was a duly appointed Firearms Examiner in the Crime Laboratory of the Chicago Police Department, who examined ballistics material recovered from the apartment occupied by Plaintiff.

18. Defendant KOLUDROVIC, at all times material to this complaint, was a duly appointed Sergeant in the Chicago Police Department and a supervising officer of the Mobile Crime Laboratory Unit of the Chicago Police Department Crime Laboratory. In his capacity as supervisor of the Mobile Crime Lab, defendant KOLUDROVIC was responsible for the careful and impartial investigation of the scene of every violent crime for the purpose of locating, gathering, labelling, photographing, and evaluating all items that might prove helpful as physical evidence found at the scene. In this capacity, defendant KOLUDROVIC was called to 2337 West Monroe Street, Chicago, on the morning of December 4, 1969.

19. Defendant JAMES DOE, at all times material to this complaint, was an evidence technician of the Area Task Force of the Chicago Police Department. In this capacity as an evidence technician, defendant JAMES DOE was responsible for the careful and impartial investigation of the scene of every violent crime for the purpose of locating, photographing, gathering, labelling, and evaluating all items that might prove helpful as physical evidence found at the scene. In this capacity, defendant JAMES DOE was called to 2337 West Monroe Street, Chicago on the morning of December 4, 1969.

20. Defendant RICHARD ROE, at all times material to this complaint, was a duly appointed Sergeant of the Chicago Police Department, assigned

to the Excessive Force Unit of the Internal Inspections Division of the Chicago Police Department. He was the immediate interrogator of Defendants GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, and MARUSICH in the purported investigation of this matter by the Internal Inspections Division.

21. Defendant JOHN DOE, and others not presently known to the plaintiff, at all times material to this complaint, were Chicago policemen, State's Attorney's Police, and other Federal, State, County and City officials and agents who participated in the planning and execution of a raid on 2337 West Monroe Street, Chicago, and subsequent proceedings concerning that raid, including the purported investigation of the matter by the Internal Inspections Division of the Chicago Police Department, the inquest into the deaths of Fred Hampton and Mark Clark conducted by the Coroner of Cook County, and the presentation of criminal charges against plaintiffs, to the Cook County Grand Jury of January, 1970.

22. All defendants are sued in both their individual and official capacities.

23. On information and belief, all defendants are residents and citizens of the County of Cook, State of Illinois, and of the United States.

COUNT ONE

/ Intentional deprivation of civil rights by illegal entry, assault battery, and other illegal acts./

24. Plaintiff alleges and realleges paragraphs 1-23 with the

same force and effect as if fully set forth herein.

25. At some time or times on or prior to the morning of December 4, 1969, defendants HANRAHAN, JALOVEC, GROTH, DAVIS, CARMODY, CISZEWSKI, GORMAN, JONES, HUGHES, JOSEPH, MARUSICH, HARRIS, HOWARD, CORBETT, KELLY, BRODERICK, DOE, and others not presently known to the plaintiff, met in various groups and thereby together planned a raid upon the apartment located at 2337 West Monro Street, Chicago, Illinois, occupied by the plaintiff.

26. At approximately 4:45 a.m., on December 4, 1969, defendants GROTH, DAVIS, CARMODY, CISZEWSKI, CORBETT, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, and others not presently known to the Plaintiff, under color of a search warrant illegally obtained from state authorities, and otherwise under color of law, illegally forced entry into the apartment at 2337 West Monroe, Chicago, Cook County, Illinois, occupied by Plaintiff.

27. After effecting this illegal entry, some or all of said defendants, under color of law but without justification, fired with sub-machine guns, shotguns and other weapons about sixty shots into the rooms occupied by plaintiff, VERLINA BREWER.

28. This gunfire grievously wounded Plaintiff.

29. Some of all of these defendants, acting under color of law as police officers, physically and verbally abused and illegally arrested Plaintiff.

30. Said defendants did illegally search and ransack the above-mentioned apartment. Under color of law but without justification,

said defendants took money, damaged and destroyed personal property of the plaintiff, and spoliated the evidence of the illegal acts committed by said defendants.

31. As a direct and proximate result of the afore-mentioned acts of the defendants, plaintiff has suffered injury and mental anguish, and will continue so to suffer in the future. Plaintiff has spent much time in the hospital, has undergone operations, and has received permanent physical injury which has caused physical pain and suffering in the past and will continue to cause such pain.

32. Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, and others not presently known to the plaintiff, willfully, maliciously, and with specific intent planned and executed the acts as alleged in Paragraphs 25-31. These acts directly and proximately caused the serious injury to plaintiff. This unjustifiable use of excessive and deadly force by these defendants, acting under color of law, deprived the plaintiff of her rights, privileges and immunities as guaranteed by the Constitution and laws of the United States and protected under 42 U.S.C. Sections 1981 et seq., particularly Section 1983.

33. The unlawful and sadistic acts of said defendants, who attacked Plaintiff as a member of the Black Panther Party because of her beliefs, thoughts, words, and associations, deprived the Plaintiff of her right to free speech, expression, association, and assembly as guaranteed by the First Amendment to the Constitution of the United States.

34. Plaintiff was deprived of her right to be free from illegal

searches and seizures as guaranteed by the Fourth Amendment to the Constitution of the United States by the defendants' illegal entry into and pillaging of the apartment occupied by Plaintiff.

35. Plaintiff was deprived of her right to life, liberty and property as guaranteed by the Fifth and Fourteenth Amendments to the Constitution of the United States by her illegal and summary punishment by said defendants, which not only denied the Plaintiff due process of law but flaunted that denial to create fear and terror in the Black Community of Chicago.

36. Plaintiff was deprived of her right to be free from cruel and unusual punishment as guaranteed by the Eighth Amendment to the Constitution of the United States, by the defendants' brutal, unjustifiable, and summary punishment of said Plaintiff.

37. Plaintiff was deprived of her right to privacy as guaranteed by the Ninth Amendment to the Constitution of the United States by said defendants' illegal entry and unjustifiable use of deadly and excessive force.

38. The deprivation of rights guaranteed to the plaintiffs by the First, Fourth, Fifth, Eighth, and Ninth Amendments are protected against state action by the due process clause of the Fourteenth Amendment to the Constitution of the United States.

39. These acts perpetrated on plaintiff as a black citizen were so contrary to all standards of humanity and to all standards of constitutional government by law that plaintiff was thereby deprived of her right to be free from badges and indicia of slavery as guaranteed by the

Thirteenth Amendment to the Constitution of the United States.

40. Plaintiff was deprived of her right to equal protection of the laws as guaranteed by the Fourteenth Amendment to the Constitution of the United States as said defendant under color of law did shoot, wound, and brutalize the Plaintiff because of her race and political beliefs.

WHEREFORE PLAINTIFF VERLINA BREWER, by her next friend WILLIAM R. BREWER, demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, and others not presently known to her, jointly and severally for compensatory damages in the amount of $200,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $200,000 plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper, and equitable.

COUNT TWO

/ Negligent deprivation of civil rights by illegal entry, assault and battery and other illegal acts./

41. Plaintiff alleges and realleges paragraphs 1-40 with the same force and effect as if fully set forth herein.

42. Defendants GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, HARRIS, HOWARD, and others not presently known to the Plaintiff, under color of law, negligently used deadly and excessive force to assault plaintiff, and illegally forced entry into the apartment at 2337 West Monroe, Chicago, Cook County, Illinois, and by these illegal acts did directly and

and proximately cause serious injury, pain, suffering and humiliation to plaintiff, VERLINA BREWER, depriving her of her rights, privileges and immunities guaranteed by the Constitution and laws of the United States, as set forth in Count One above, particularly Paragraphs 33-40, and protected under 42 U.S.C., Sections 1981 et seq., particularly Section 1983.

43. Defendants HANRAHAN, JALOVEC, GROTH, JOHN DOE and others not presently known to the Plaintiffs, acting under color of state law, statute, ordinance, custom and usage, did negligently plan and create a situation where deadly and excessive force was likely to be used by planning to take on the raid of 2337 West Monroe Street excessive firearm weaponry; by planning to execute the raid in the early morning hours of December 4, 1969, when Defendants knew persons would be present in the apartment, rather than at a time when they knew the apartment to be vacant; by failing to equip the raiding party with tear gas or other means for peacefully subduing the occupants of the apartment if said occupants should resist service of the search warrant; and, on information and belief, in sending on this assignment officers who in the past had been found by the Chicago Police Department to have used excessive and deadly force to do damage to citizens in the black community. Said Defendants did thereafter negligently permit the use of deadly and excessive force, which proximately and directly caused serious injury, physical pain and suffering to Plaintiff VERLINA BREWER, depriving her of her rights, privileges and immunities guaranteed by the Constitution and laws of the United States, as set forth in Count One above, and particularly Paragraphs 33-40, and protected under 42 U.S.C., Sections

1981 et seq., particularly Section 1983.

WHEREFORE PLAINTIFF VERLINA BREWER, by her next friend WILLIAM R. BREWER, demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, and others not presently known to her jointly and severally, for compensatory damages in the amount of $200,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $200,000 plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper, and equitable.

COUNT THREE

/Conspiracy for deprivation of Equal Protection of the Laws by illegal entry, assault, battery, and other illegal acts./

44. Plaintiff alleges and realleges Paragraphs 1-43 with the same force and effect as if fully set forth herein.

45. Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVID, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, and other defendants not presently known to the plaintiff, prior to the illegal raid of December 4, 1969, upon 2337 West Monroe Street, Chicago, Illinois, met and planned this illegal raid and agreed and conspired together to enter the apartment illegally and to use excessive and deadly force upon the occupants of 2337 West Monroe Street, which occupants included Plaintiff VERLINA BREWER. Each defendant did agree to and did plan this raid with the knowledge and purpose that it would deprive said occupants of their rights,privileges, and immunities including the Equal Protection of the Laws, as guaranteed under the

Constitution and laws of the United States, specifically 42 U.S.C., Sections 1983 and 1985. Said defendants did purposefully plan, while acting under the guise and color of state law, statutes, and customs, to discriminate against the occupants of 2337 West Monroe Street because they are members of the black race and because of their political beliefs. Acting in accordance with this plan and conspiracy, under color of state law the defendants did execute this illegal raid and did use brutal and excessive force, as set forth in the overt acts alleged in Paragraphs 25-32, above. This course of conduct by the defendants proximately caused serious injury to the plaintiff, as alleged in Paragraphs 27-40, and deprived her of the Equal Protection of the Laws.

WHEREFORE PLAINTIFF VERLINA BREWER, by her next friend WILLIAM R. BREWER, demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, and others not presently known to her, jointly and severally, for compensatory damages in the amount of $200,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $200,000, plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper, and equitable.

COUNT FOUR

/Neglect to prevent harm from conspiracy for deprivation of civil rights by illegal entry, assault, and other illegal acts./

46. Plaintiff alleges and realleges paragraphs 1-45 with the same force and effect as if fully set forth herein.

47. Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, and others not presently known to the

Plaintiffs did have knowledge of the conspiracy as alleged in Paragraph 45 to deprive Plaintiff VERLINA BREWER of the Equal Protection of the Laws as guaranteed by the Constitution and laws of the United States, prior to the execution of this illegal raid. These defendants, as immediate superiors of the raiding party or as co-participants in the raid, did have the power to prevent the committing of these illegal acts against the Plaintiff and did neglect and refuse to prevent these illegal acts. These illegal acts were committed during the raid upon the apartment occupied by Plaintiff and did proximately cause serious injury to her as alleged in Paragraphs 27-40, contrary to the provisions of 42 U.S.C., Section 1986.

WHEREFORE PLAINTIFF VERLINA BREWER, by her next friend WILLIAM R. BREWER, demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, AND others not presently known to her, jointly and severally, for compensatory damages in the amount of $200,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $200,000, plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper, and equitable.

COUNT FIVE

[Intentional deprivation of civil rights by false imprisonment.]

48. Plaintiff alleges and realleges Paragraphs 1-47 with the same force and effect as if fully set forth herein.

49. Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES,

JOSEPH, KELLY, MARUSICH, and others not presently known to the Plaintiff did willfully, maliciously, and with specific intent cause plaintiff to be incarcerated without legal cause, to be precluded from gaining her liberty on bail, and to be prevented from demonstrating the lack of foundation of the charges against her thereby causing her to be deprived of their liberty without due process of law, in violation of the Fifth and Fourteenth Amendments of the Constitution of the United States, and in violation of rights protected under 42 U.S.C., Section 1983.

50. Said defendants did cause Plaintiff to be deprived of her liberty by pressing against her charges of attempted murder and aggravated battery that said defendants knew to be wholly unfounded; and by preventing Plaintiff from obtaining a preliminary hearing on December 5, 1969, whereby Plaintiff could have shown the lack of foundation of the charges.

51. The acts of said defendants were further intended to prevent Plaintiff from telling the public of the defendants' murderous conduct at 2337 West Monroe, Chicago, thereby intending to chill the exercise by Plaintiff of her right of free speech guaranteed by the First Amendment of the Constitution of the United States and 42 U.S.C., Section 1983.

52. As a result of the false charges lodged by these defendants, Plaintiff was imprisoned falsely under color of law for several days.

53. As a direct and proximate result of these false charges lodged by these defendants, Plaintiff VERLINA BREWER suffered serious injury to her reputation and severe mental anguish.

WHEREFORE PLAINTIFF VERLINA BREWER, by her next friend WILLIAM R. BREWER, demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD,

HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, and others not presently known to her jointly and severally, for compensatory damages in the amount of $100,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $100,000 plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper, and equitable.

COUNT SIX

/Conspiracy for deprivation of Equal Protection of the Laws by false imprisonment./

54. Plaintiff alleges and realleges paragraphs 1-53 with the same force and effect as if fully set forth herein.

55. Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, and others not presently known to the Plaintiff on December 4, 1969, did meet and plan to lodge against Plaintiff charges they knew to be wholly unfounded, and did agree and conspire together to cause Plaintiff VERLINA BREWER to be imprisoned illegally. Each defendant did agree and did plan to place these charges with the knowledge and purpose that they would deprive Plaintiff of her rights, privileges, and immunities as guaranteed under the First, Fifth, and Fourteenth Amendments of the Constitution of the United States, and protected under 42 U.S.C., Sections 1983 and 1985. They did purposely plan, while acting under the guise and color of state law, statutes, and customs, to discriminate against the Plaintiff because she is a member of the black race and because of her political beliefs and associations. Acting in accordance with this plan and conspiracy, some or all of these defendants knowingly pressed false charges of attempted

murder and aggravated battery and willfully denied Plaintiff a preliminary hearing. This conspiracy and these overt acts by defendants did proximately cause Plaintiff's illegal imprisonment, as set forth in paragraphs 49-53, depriving her of rights under the First, Fifth and Fourteenth Amendments of the Constitution of the United States, including the right to Equal Protection of the Laws.

WHEREFORE PLAINTIFF VERLINA BREWER, by her next friend WILLIAM R. BREWER, demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, and others not presently known to her, jointly and severally, for compensatory damages in the amount of $100,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $100,000 plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper, and equitable.

COUNT SEVEN

/Neglect to prevent harm from conspiracy for deprivation of Equal Protection of the Laws by false imprisonment./

56. Plaintiff alleges and realleages paragraphs 1-55 with the same force and effect as if fully set forth herein.

57. Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, HARRIS, CISZEWSKI, CORBETT, DAVIS, GORMAN, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, and others not presently known to the Plaintiff did have knowledge of the conspiracy as alleged in paragraph 55 to deprive Plaintiff of the Equal Protection of the Laws as guaranteed by the Constitution and laws of the United States, prior to the lodging of the false charges of attempted murder and aggravated battery, and throughout the period during which Plaintiff was illegally confined.

These defendants did have the authority and power to prevent the committing of these illegal acts against the Plaintiff and did neglect and refuse to prevent these illegal acts. These illegal acts did proximately cause injury to Plaintiff, as set forth above in paragraphs 49-53, contrary to the provisions of 42 U.S.C. Section 1986.

WHEREFORE PLAINTIFF VERLINA BREWER, by her next friend WILLIAM R. BREWER, demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, and others not presently known to her, jointly and severally, for compensatory damages in the amount of $100,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $100,000, plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper, and equitable.

COUNT EIGHT

/Conspiracy for deprivation of Equal Protection of the Laws by wrongful and malicious prosecution./

58. Plaintiff alleges and realleges paragraphs 1-57 with the same force and effect as if fully set forth herein.

59. Some or all of defendants HANRAHAN, JALOVEC, SOROSKY, MELTREGER, MULCHRONE, ERVANIAN, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, MEADE, KUKOWINSKI, PURTELL, SADUNAS, KOLUDROVIC, JAMES DOE, RICHARD ROE, JOHN DOE, and others not presently known to the Plaintiff met from time to time with some or all of the other defendants named in this Paragraph and planned, agreed and conspired together with the purpose of and

intent to use their official positions in state and local government to deprive Plaintiff VERLINA BREWER of the Due Process Law and of the Equal Protection of the Laws by instituting against Plaintiff a prosecution for attempted murder, aggravated battery and other offenses that defendants knew to be false and fraudulent. Acting under color of state law, ordinances, statutes, custom, and usage, said defendants, although they knew that there was no justifiable reason to arrest or prosecute the Plaintiff, arrested Plaintiff for the purpose of suppressing and distorting the true nature and extent of defendants' own wrongdoing at 2337 West Monroe, Chicago, on December 4, 1969, in brutally and illegally injuring and humiliating Plaintiff and brutally killing other occupants of that apartment, Fred Hampton and Mark Clark.

60. Some or all of defendants HANRAHAN, JALOVEC, MELTREGER, SOROSKY, MULCAHONE, ERVANIAN, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, MEADE, KUROWINSKI, PURTELL, KOLUDROVIC, SADUNAS, JAMES DOE, RICHARD ROE, JOHN DOE, and others not presently known to the Plaintiff met from time to time after 5 a.m. on December 4, 1969, with some or all of the other defendants named in this Paragraph and, acting under color of state law, ordinances, statutes, custom and usage, did plan, agree and conspire together to deprive Plaintiff of the Due Process of Law and of the Equal Protection of the Laws by preparing and circulating to the public, official reports that purported to justify the continuation of the proceedings against the Plaintiff and that continued to suppress the true nature of the actions of some or all of the defendants on December 4, 1969. These reports, all calculated by the defendants to falsify and distort the occurrences of the brutal

raid of December 4, 1969, included both official statements to the news media and a series of formal proceedings including an investigation by the Internal Inspections Division of the Chicago Police Department, an inquest conducted by the Cook County Coroner's Office into the deaths of Fred Hampton and Mark Clark, and the presentation of the false charges to the Cook County Grand Jury for January 1970. The reports also included the investigation of the premises at 2337 West Monroe, Chicago, and purported ballistics and scientific analysis performed by the Crime Laboratory of the Chicago Police Department.

61. Some or all of defendants HANRAHAN, JALOVEC, MELTREGER, SOROSKY, MULCHRONE, ERVANIAN, GROTH, BRODERICK, CAHMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, MEADE, KUKOWINSKI, PURTELL, KOLUDROVIC, SADUNAS, JAMES DOE, RICHARD ROE, JOHN DOE, and others not presently known to the Plaintiff willfully and maliciously furthered the prosecution of Plaintiff known to said defendants to be unfounded, with the intent of discriminating against the Plaintiff because she is a member of the black race and because of her political beliefs and associations, in violation of the First and Fourteenth Amendments to the Constitution of the United States, and of 42 U.S.C., Sections 1983 and 1985.

62. This conspiracy to suppress the true nature of the raid on 2337 West Monroe Street, Chicago, Illinois, at 4:45 a.m. on December 4, 1969, was to be furthered by means of the prosecution of Plaintiff which was to be widely publicized in the public media and justified by erroneous descriptions of the events of the raid presented by Defendants at every formal and informal opportunity. In furtherance of the conspiracy, defendants committed the following overt acts, among others, all committed

under color of law and with knowledge that the prosecution of Plaintiff was wholly unfounded, and committed with intent to suppress the true nature of the raid:

a. Defendants GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, and MARUSICH arrested Plaintiff at about 5:00 a.m. on December 4, 1969, and subsequently lodged charges of attempted murder and aggravated battery, which defendants knew to be completely unfounded, against her.

b. Defendants GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, and MARUSICH, in violation of normal investigating procedures, prohibited the evidence technicians from the Task Force and the Mobile Crime Lab of the Chicago Police Department from gathering evidence until the above-named defendants had picked up many items themselves; said procedure was adopted by defendants in order to obscure the true nature of their brutal and murderous conduct during the raid on the apartment.

c. When the Defendant State's Attorney's police had left 2337 West Monroe Street, on the morning of December 4, 1969, Defendant KOLUDROVIC, as Supervising sergeant of the Mobile Crime Lab, Defendant JAMES DOE, and members of the Mobile Crime Lab not presently known to the Plaintiff, did intentionally limit their investigation of the physical evidence in the apartment to a search for evidence of any shots that might have been fired by the occupants of the apartment; the failure of these Defendants to examine the premises and its contents for the purpose of determining the nature and extent of the shots fired by the Defendant State's Attorney's police was intended to obscure the true nature of the events that had

transpired in the apartment.

d. Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, and MARUSICH, on December 4, 1969, caused charges of attempted murder and aggravated battery, which charges Defendants knew to be unfounded, to be lodged against Plaintiff for the purpose of causing the illegal incarceration of Plaintiff and in order to suppress the true nature of their raid.

e. Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, and MARUSICH met together on the morning of December 4, 1969, after the conclusion of the raid, and prepared a composite version of the events of the raid that would justify the wanton brutality practiced by the defendants during their raid.

f. Defendants HANRAHAN, JALOVEC, and GROTH released parts of this falsified account of the raid to the press, radio and television on December 4, 1969.

g. Defendant HANRAHAN and others not presently known to the Plaintiff denied Plaintiff a preliminary hearing on December 5, 1969, thereby shielding Defendant State's Attorney's Police from cross-examination that would have revealed the fabrications in their stories; defendant HANRAHAN thereby attempted to assure the success of a prosecution that he knew to be totally unfounded and forced Plaintiff to remain incarcerated.

h. On or about December 10, 1969, Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, and MARUSICH released in a detailed report with accompanying photographs, another falsified version

of the events at 2337 West Monroe, Chicago, Illinois, on December 4, 1969, in order to obscure the true nature of defendants' conduct concerning the raid; this version was printed, as defendants intended, in the Chicago Tribune newspaper on December 11, 1969.

i. Defendants HANRAHAN, JALOVEC, and others not presently known to the Plaintiff, on or about December 11, 1969, staged and directed an exclusive, carefully rehearsed, and carefully edited television film, shown repeatedly in Chicago and throughout the country, which film depicted, through the words and actions of the Defendant-State's Attorney's police themselves, a description of the events of the raid that defendants knew to be false and erroneous.

j. Defendants GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY and MARUSICH, on or about December 11, 1969, appeared on this exclusive television film, and some or all of them did thereon knowingly distort the description of the raid in which they had participated with the purpose of creating in the public mind a false and erroneous impression of the events that had transpired at 2337 West Monroe on December 4, 1969.

k. Defendant HANRAHAN on or about December 11, 1969, requested defendant CONLISK to have the Internal Inspections Division of the Chicago Police Department initiate a purported investigation of the raid for the purpose of presenting a false and distorted description of the raid in order to justify the conduct of the defendant State's Attorney's police and to justify the charges lodged against Plaintiff.

l. Defendants MULCHRONE and ERVANIAN, as supervising officers of the Internal Inspections Division, on or about December 15, 1969, intentionally modified normal investigating procedures of the Division

and intentionally limited the scope of the investigation for the express purpose of preventing any information contradictory to the false story already told by the Defendant State Attorney's police from emerging in that investigation, and for the express purpose of distorting the events of the raid so that the brutal conduct of the raiders would erroneously appear to the public to have been justified.

m. Defendant MEADE, on or about December 15, 1969, prepared the questions to be asked of the defendant State's Attorney's police in the Internal Inspections Division investigation and also prepared a set of proposed answers to these questions; Defendant MEADE purposely limited the questions prepared so as not to test the veracity of the defendant raiders nor to question in any way the accounts that said defendants had previously given of the raid, but rather to enable the Internal Inspections Division formally to approve these defendants' earlier account as accurate in the Division's report to the public without any independant attempt to test the truthfulness of this account.

n. Defendants JALOVEC, SOROSKY, and MELTREGER met with MEADE and GROTH on or about December 16, 1969, to revise and approve the questions to be asked of the defendant State's Attorney's police and the answers that said defendant policemen were to give at the interrogation by the Internal Inspections Division so that no statements contradicting earlier statements by said Defendant policemen would be made, all in order that the report of the Internal Inspections Division would falsely and erroneously exonerate the Defendant policement and justify their conduct on the raid and the subsequent prosecution of Plaintiff.

p. Defendant KUKOWINSKI, upon the direction of defendant MULCHROHE

on or about December 16, 1969, directed defendant RICHARD ROE to limit the interrogation of the defendant State's Attorney's police by the Internal Inspections Division to those questions prepared by Defendant MEADE in order to distort the findings of the investigation and to enable the public report by the Internal Inspections Division to justify the conduct of said Defendants and to justify the unfounded prosecution of Plaintiff.

q. Defendant RICHARD ROE and others not presently known to the Plaintiffs did limit their interrogation of Defendant State's Attorney's police on or about December 16, 1969, to those questions prepared by Defendant MEADE in order to distort the findings of the Internal Inspections Division and enable its public report to justify the unfounded prosecution of Plaintiff.

r. Defendants GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, and MARUSICH testified falsely on or about December 16, 1969, in response to the questions asked of them by the Internal Inspections Division concerning the events of December 4, 1969.

s. Defendants GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, and MARUSICH testified falsely on or about January 8, 9, 12, 13, 14, 15, 16, and 19 1970, concerning the events of December 4, 1969, at 2337 West Monroe, at the Inquest held by the Coroner of Cook County, Illinois.

t. Defendants SADUNAS and KOLUDROVIC, acting under the direction of superior officers unknown to the Plaintiff, testified falsely on or about January 19, 20, and 21, 1970 at said inquest concerning the physical evidence removed from 2337 West Monroe and the analysis of

said evidence, with intent to create an erroneous impression of Plaintiff's conduct on December 4, 1969, and thereby to justify the conduct of Defendant State's Attorney's police and to justify the continuation of the unfounded prosecution of Plaintiff.

u. Defendant HANRAHAN, acting through Defendant JALOVEC, or others not presently known to the Plaintiff, did purposely obstruct the analysis of evidence by the Crime Lab of the Chicago Police Department by withholding from the Crime Lab the weapons used by the Defendant State's Attorney's police on the raid on December 4, 1969, and did thereby assist defendants PURTELL and SADUNAS in producing an incomplete, false and erroneous firearms report that misled the public into believing that Brenda Harris, an occupant of the apartment, had fired at the Defendant State's Attorney's police, thereby justifying the continuation of the unfounded prosecution of Plaintiff.

v. Defendants GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, SADUNAS, and others not presently known to the Plaintiff, during January, 1970, gave under oath testimony they knew to be false, inaccurate and misleading before the Cook County Grand Jury for January, 1970 in the case of People of the State of Illinois v. Brenda Harris, et al., in order to continue the unfounded prosecution of Plaintiff.

63. As a direct and natural result of this conspiracy carried out by the defendants, the prosecution of Plaintiff was continued until May 8, 1970. Plaintiff incurred expenses for ballistics analyses and pathological examinations in the preparation of the defense to the unfounded prosecution. Plaintiff also suffered serious injury to her reputation and severe mental anguish as a natural result of the

extended continuation of the wrongful and malicious prosecution.

WHEREFORE PLAINTIFF VERLINA BREWER, by her next friend WILLIAM R. BREWER, demands judgment against Defendants HANRAHAN, JALOVEC, MELTREGER, SOROSKY, MULCHRONE, ERVANIAN, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, MEADE, KUKOWINSKI, PURTELL, KOLUDROVIC, SADUNAS, JAMES DOE, RICHARD ROE, JOHN DOE, and others not presently known to her, jointly and severally, for compensatory damages in the amount of $200,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $200,000, plus the cost of this action, attorney's fees, and such other relief as to this court seems just, equitable and proper.

COUNT NINE

/Intentional deprivation of civil rights by wrongful and malicious prosecution./

64. Plaintiff alleges and realleges paragraphs 1-63 with the same force and effect as if fully set forth herein.

65. Some or all of defendants HANRAHAN, JALOVEC, MELTREGER, SOROSKY, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, MULCHRONE, PURTELL, ERVANIAN, MEADE, KUKOWINSKI, KOLUDROVIC, SADUNAS, JAMES DOE, RICHARD ROE, JOHN DOE, and others not presently known to the Plaintiff intentionally, and/or with reckless disregard for the rights of Plaintiff, acting under color of state law, ordinances, statutes, custom and usage, caused Plaintiff to be arrested and prosecuted for attempted murder and aggravated battery, although they knew that there was no legal ground to arrest or prosecute Plaintiff. Said defendants intentionally did

these acts for the purpose of suppressing and distorting the true nature and extent of defendants' own wrongdoing at 2337 West Monroe, Chicago, on December 4, 1969, in brutally and illegally injuring and humiliating Plaintiff and brutally killing other occupants of that apartment. Said defendants further did these acts for the purpose of depriving Plaintiff of her rights, privileges and immunities guaranteed by the Constitution and laws of the United States, and protected under 42 U.S.C., Section 1983.

66. Some or all of Defendants HANRAHAN, JALOVEC, MELTREGER, SOROSKY, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, MULCHRONE, ERVANIAN, MEADE, KUKOWINSKI, PURTELL, SADUNAS, KOLUDROVIC, DOE, ROE, and others not presently known to the Plaintiff intentionally, and/or with reckless disregard for the right of Plaintiff to be free from unfounded prosecution, acting under color of state law, ordinances, statutes, custom and usage, prepared and circulated to the public official reports that purported to justify the continuation of the criminal proceedings against the Plaintiff and that continued to suppress the true nature of the actions of some of the Defendants on December 4, 1969. These reports were all intended by the defendants to falsify and distort the occurrences of the brutal raid of December 4, 1969. The reports included both official statements to the news media and a series of formal proceedings, including an investigation by the Internal Inspections Division of the Chicago Police Department, an inquest conducted by the Coroner of Cook County into the deaths of Fred Hampton and Mark Clark, the investigation of the premises at

2337 West Monroe and the purported ballistics and scientific analyses performed by the Crime Laboratory of the Chicago Police Department, and the presentation of false charges and testimony to the Cook County Grand Jury, as set forth specifically in Paragraph 62. All these acts were committed with the intent of depriving Plaintiff of her rights, privileges and immunities under the Constitution and laws of the United States, protected by 42 U.S.C., Section 1983.

67. Some or all of defendants HANRAHAN, JALOVEC, MELTREGER, SOROSKY, MULCHRONE, ERVANIAN, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, MEADE, KUKOWINSKI, PURTELL, KOLUDROVIC, SADUNAS, JAMES DOE, RICHARD ROE, JOHN DOE, and others not presently known to the Plaintiff willfully and maliciously furthered the prosecution of Plaintiff, known to said defendants to be unfounded, with the intent of discriminating against the Plaintiff because she is a member of the black race and because of her political beliefs and associations, in violation of the First and Fourteenth Amendments to the Constitution of the United States, and of 42 U.S.C., Sections 1983 and 1985.

68. As a direct and natural result of these acts of the defendants, the prosecution of Plaintiff suffered serious injury to her reputation and severe mental anguish.

WHEREFORE PLAINTIFF VERLINA BREWER, by her next friend WILLIAM R. BREWER, demands judgment against Defendants HANRAHAN, JALOVEC, MELTREGER, SOROSKY, MULCHRONE, ERVANIAN, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY,

MARUSICH, MEADE, KUKOWINSKI, PURTELL, KOLUDROVIC, SADUNAS, JAMES DOE, RICHARD ROE, JOHN DOE, and others not presently known to her, jointly and severally for compensatory damages in the amount of $200,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $200,000, plus the costs of this action, attorney's fees, and such other relief as to this court seems just, equitable and proper.

COUNT TEN

/Neglect to prevent harm from conspiracy for deprivation of Equal Protection of the Laws by wrongful and malicious prosecution./

69. Plaintiff alleges and realleges paragraphs 1-68 with the same force and effect as if fully set forth herein.

70. Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, DALEY, CONLISK, MULCHRONE, ERVANIAN, MEADE, KUKOWINSKI, SOROSKY, MELTREGER, PURTELL, SADUNAS, KOLUDROVIC, JAMES DOE, RICHARD ROE, JOHN DOE, and others not presently known to the Plaintiff knew of the conspiracy described in paragraphs 59-62 to deprive Plaintiffs of the Equal Protection of the Laws as guaranteed by the laws and the Fourteenth Amendment to the Constitution of the United States, prior to the execution of said conspiracy and throughout the duration of said conspiracy. These defendants, as officials supervising the persons conducting and continuing the unfounded and malicious prosecutions, and as p. rsons officially responsible for investigations that, if conducted fairly and impartially, would have shown the prosecutions to be unfounded, had the power, authority and

responsibility to prevent the committing of these illegal acts against the Plaintiff, but these defendants neglected and refused to prevent these illegal acts. These illegal acts proximately caused injury to the Plaintiff in her reputation, by severe mental anguish, and other injuries as set forth in Paragraphs 61 and 63, contrary to the provisions of 42 U.S.C., Section 1986.

WHEREFORE PLAINTIFF VERLINA BREWER, by her next friend WILLIAM R. BREWER, demands judgment against Defendants HANRAHAN, JALOVEC, MELTREGER, SOROSKY, DALEY, CONLISK, MULCHRONE, ERVANIAN, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, MEADE, KUKOWINSKI, PURTELL, KOLUDROVIC, SADUNAS, JAMES DOE, RICHARD ROE, JOHN DOE, and others not presently known to her, jointly and severally, for compensatory damages in the amount of $200,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $200,000, plus the cost of this action, attorney's fees, and other such relief as to this court seems just, equitable and proper.

COUNT ELEVEN

/Negligent deprivation of civil rights by failure of municipal corporation properly to hire, train, and supervise its police employees./

71. Plaintiff alleges and realleges paragraphs 1-70 with the same force and effect as if fully set forth herein.

72. Defendant CITY OF CHICAGO was and still is the statutory public employer of Defendants GROTH, BRODERICK, CARMODY, CISZEWSKI,

CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, DALEY, CONLISK, MULCHROHE, ERVANIAN, MEADE, RIKOWINSKI, KOLUDROVIC, SADUNAS, PURTELL, JAMES DOE, RICHARD ROE, JOHN DOE, and others not presently known to the Plaintiff.

73. Defendant CITY OF CHICAGO did fail to properly hire, train, and supervise the Defendant Police Officers who were at the time of the illegal raid assigned to the Cook County State's Attorney's Office.

74. Defendant CITY OF CHICAGO had consistently failed to discipline officers who had used deadly and excessive force against citizens prior to December 4, 1969. Said failure to so discipline past offenders of the Chicago Police Department was known to the defendants and did give said Defendant police officers license to use excessive and deadly force against the Plaintiff without fear of punishment.

75. The raid upon the residence of the Plaintiff on the morning of December 4, 1969, by the duly appointed Defendant Chicago Police officers did proximately cause serious injury to the Plaintiff and did deprive her of her right to full and equal benefit of all laws; as this raid was illegal and performed in a discriminatory and racist manner aginst the Plaintiff, as a black woman, contrary to the Fourteenth Amendment of the Constitution of the United States, and contrary to 42 U.S.C., Sections 1981, 1983, and 1988.

76. Defendant CITY OF CHICAGO failed properly to hire, train and supervise the Defendant Police Officers who were assigned to conduct an examination of the scene of the incident, 2337 West Monroe, assigned to analyze the items of evidence recovered there,

and those officers who were assigned to supervise or conduct the purported investigation of the raid for the Internal Inspections Division of the Chicago Police Department.

77. Defendant CITY OF CHICAGO had, prior to December 4, 1969, consistently failed to discipline officers who had conducted unprofessional and biased examinations of physical evidence, or who had conducted purported investigations for the Internal Inspections Division of the Chicago Police Department with the purpose of suppressing evidence of wrongdoing by police officers against whom complaints had been filed. Said failure to so discipline past offenders in the Crime Laboratory and the Internal Inspections Division of the Chicago Police Department was known to defendants and gave said defendants license to conduct their investigations and examinations with the purpose of furthering the unfounded prosection of Plaintiff without fear of punishment of said defendants.

78. The malicious and unfounded prosecution of Plaintiff, continuing from December 4, 1969, until May 8, 1970, planned, executed and furthered by the duly appointed defendant police officers named in this count did proximately cause serious injury to the Plaintiff and did deprive her of her right to full and equal benefit of all laws, as these prosecutions were unfounded and conducted in a discriminatory and racist manner against the Plaintiff, as a black woman, contrary to the Fourteenth Amendment to the Constitution of the United States and contrary to the provisions of 42 U.S.C., Sections 1981, 1983, and 1988.

79. Defendant CITY OF CHICAGO's grossly negligent failure

properly to hire, train, and supervise the individual defendants named in Paragraph 72 and Defendant CITY OF CHICAGO's grossly negligent failure properly to discipline past offenders who had used excessive and deadly force, who had conducted unprofessional and biased examinations of premises and physical evidence, and who had conducted purported investigations for the Internal Inspections Division with the purpose of suppressing evidence of wrongdoing by police officers directly and proximately caused the serious injury of Plaintiff, in violation of the Constitution and laws of the United States, as alleged in Paragraphs 25-40 and 61-63.

WHEREFORE PLAINTIFF VERLINA BREWER by her next friend, WILLIAM R. BREWER, demands judgment against Defendant CITY OF CHICAGO for compensatory damages in the amount of $400,000 plus the cost of this action, attorney's fees, and such other relief as to this court seems just, proper and equitable.

COUNT TWELVE

/Liability of municipal corporations through respondeat superior for the wrongful conduct of their public employees/

80. Plaintiff alleges and realleges paragraphs 1-79 with the same force and effect as if fully set forth herein.

81. Defendant CITY OF CHICAGO was and is a duly incorporated municipality under the Constitution, laws and statutes of the State of Illinois.

82. Defendant COOK COUNTY, ILLINOIS, is a duly established legislative corporation under the laws, statutes, and Constitution of

the State of Illinois.

83. Defendants GROTH, BRODERICK, CARMODY, CIESIEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, CONLISK, MULCAHONE, ERVANIAN, MEADE, KUKOWINSKI, PURTELL, KOLUDROVIK, SADUMAS, JAMES DOE, RICHARD ROE, JOHN DOE, and others not presently known to the Plaintiff were duly employed officials in the Police Department of the City of Chicago at all times material to this complaint.

84. Defendant DALEY was the duly elected and duly employed Mayor of the City of Chicago, at all times material to this complaint.

85. Defendants HANRAHAN, JALOVEC, MELTZER, SOROSKY, and others not presently known to the Plaintiff were duly elected and/or appointed officials of Cook County, Illinois, and were in the employment of this County, at all times material to this complaint.

86. At all times material to this complaint, said defendant City and County Officials were acting within the scope of their employment by said City and/or County and were acting as agents and employees thereby. While acting in this capacity, said defendants did commit illegal and wrongful acts as alleged in Paragraphs 1-79, particularly Paragraphs 25-32 and 59-62. These wrongful acts did proximately and directly cause injury to Plaintiff, as alleged in Paragraphs 26-40 and 61-63, in violation of rights, privileges and immunities guaranteed under the Constitution and laws of the United States, including 42 U.S.C., Sections 1981, 1983, and 1988. These rights are further protected through 42 U.S.C., Section 1988, by the law of the State of Illinois,

which makes a municipal corporation liable for the wrongful and tortious acts of its employees.

WHEREFORE PLAINTIFF VERLINA BREWER, by her next friend WILLIAM R. BREWER, demands judgment against Defendants CITY OF CHICAGO and COOK COUNTY, ILLINOIS, jointly and severally, for compensatory damages in the amount of $400,000, plus the cost of this action, attorney's fees, and such other relief as to this court seems just, proper and equitable.

COUNT THIRTEEN

[Action under Illinois law for assault and battery]

87. Plaintiff alleges and realleges Paragraphs 1-86 with the same force and effect as though fully set forth herein.

88. Some or all of Defendants GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MANUSICH, and others not presently known to the Plaintiff, acting at the direction of Defendants HANRAHAN, JALOVEC, and others not presently known to the Plaintiff, at about 4:45 a.m. on December 4, 1969, recklessly, wantonly, unlawfully, and with malice did fire about sixty shots from sub-machine guns and other firearms into a room at 2337 West Monroe, Chicago, occupied by Plaintiff VERLINA BREWER, a citizen of Michigan. The directions so to use firearms were given by Defendants HANRAHAN and JALOVEC with malice.

89. Plaintiff was grievously wounded by this gunfire, and suffered injury as alleged in Paragraphs 27-31.

90. Defendants GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT,

DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, and MARUSICH were acting within the scope of their employment by Defendant CITY OF CHICAGO at the time of the assault and battery alleged in Paragraphs 88-89.

91. Defendants HANRAHAN and JALOVEC were acting within the scope of their employment by Defendant COOK COUNTY, ILLINOIS, when they directed the commission of the assault and battery alleged in Paragraphs 88-89.

WHEREFORE PLAINTIFF VERLINA BREWER, by her next friend, WILLIAM R. BREWER, demands judgment against Defendants CITY OF CHICAGO; COOK COUNTY, ILLINOIS; HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, and others not presently known to her, for compensatory damages in the amount of $200,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $200,000, plus the cost of this action, attorney's fees and such other relief as to this Court seems just, proper and equitable.

COUNT FOURTEEN

[Action under Illinois law for false imprisonment]

92. Plaintiff alleges and realleges Paragraphs 1-91 with the same force and effect as though fully set forth herein.

93. Some or all of Defendants GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, and MARUSICH, knowing that there was no probable cause to arrest Plaintiff,

VERLINA BREWER, caused her to be arrested with intent to deprive her illegally of her freedom on December 4, 1969.

94. Some or all of Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, and MARUSICH, either with malice or without malice intentionally caused Plaintiff to be detained illegally, without any formal charge, for several hours on December 4, 1969. Said defendants furthermore, either with malice or without malice intentionally caused Plaintiff to be detained illegally for several days thereafter on false and fraudulent charges of attempted murder and aggravated battery, and, with malice or with negligence, denied Plaintiff an opportunity at a preliminary hearing immediately to prove that her detention was unlawful.

95. This illegal detention directly and proximately caused Plaintiff serious injury, as alleged in Paragraphs 51-53.

96. Defendants GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, and MARUSICH were acting within the scope of their employment by Defendant CITY OF CHICAGO at the time of the false imprisonment alleged in Paragraphs 93-94.

97. Defendants HANRAHAN and JALOVEC were acting within the scope of their employment by Defendant COOK COUNTY, ILLINOIS, when they directed the commission of the false imprisonment alleged in Paragraphs 93-94.

WHEREFORE, PLAINTIFF VERLINA BREWER, by her next friend, WILLIAM R. BREWER, demands judgment against Defendants CITY OF CHICAGO; COOK

COUNTY, ILLINOIS; HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, and others not presently known to her, for compensatory damages in the amount of $100,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $100,000, plus the cost of this action, attorney's fees, and such other relief as to this Court seems just, proper and equitable.

COUNT FIFTEEN

[Action under Illinois law for malicious prosecution]

98. Plaintiff alleges and realleges Paragraphs 1-97 with the same force and effect as though fully set forth herein.

99. Some or all of defendants HANRAHAN, JALOVEC, MELTREGER, SOROSKY, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, DALEY, CONLISK, MULCHRONE, ERVANIAN, MEADE, KUKOWINSKI, PURTELL, KOLUDROVIC, SADUNAS, JAMES DOE, RICHARD ROE, JOHN DOE and others not presently known to the Plaintiff, on and after December 4, 1969, and continuing until May 8, 1970, by the acts alleged in Paragraphs 59-62, caused the institution and continuation of an illegal prosecution of Plaintiff VERLINA BREWER for attempted murder and aggravated battery.

100. Some or all of the defendants named in Paragraph 99 prosecuted Plaintiff with malice, and with knowledge that there was no probable cause to prosecute

101. Defendant CITY OF CHICAGO, through the acts of its employees,

who acted within the scope of their employment at all times material to this complaint, including Defendants GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, COMLISK, MULCHRONE, ERVANIAN, MEADE, KUKOWINSKI, PURTELL, SADUNAS, KOLUDROVIC, JAMES DOE, RICHARD ROE, and JOHN DOE, knew all the circumstances of the raid and ratified, adopted and furthered the continuation of this malicious prosecution.

102. Defendant COOK COUNTY, ILLINOIS, through the acts of its employees who acted within the scope of their employment at all times material to the complaint, including Defendants HANRAHAN, JALOVEC, MELTREGER, and SOROSKY, knew all the circumstances of the raid and ratified, adopted and furthered the continuation of this malicious prosecution.

103. On or about May 8, 1970, all charges against Plaintiff VERLINA BREWER were dismissed, without conviction of Plaintiff, by the Circuit Court of Cook County, Illinois.

104. This malicious prosecution directly and proximately caused Plaintiff serious injury, as alleged in Paragraph 63.

WHEREFORE PLAINTIFF VERLINA BREWER, by her next friend WILLIAM R. BREWER, demands judgment against Defendants CITY OF CHICAGO, COOK COUNTY, ILLINOIS, HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, and others not presently known to her, for compensatory damages in the amount of $200,000 and further demands judgment against said defendants, jointly and severally, for punitive damages in

the amount of $200,000, plus the cost of this action, attorney's fees, and such other relief as to this Court seems just, proper and equitable.

Respectfully submitted,

Francis E. Andrew

Plaintiff demands trial by jury.

Francis E. Andrew

FRANCIS E. ANDREW
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Of Counsel:

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New York, New York 10036

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DEBORAH JOHNSON; RONALD SATCHEL, by his next friend, CLARA BRIDGES; HAROLD BELL; BLAIR ANDERSON, by his next friend, [redacted] HESTER; BRENDA HARRIS; and LOUIS TAUZLUCK, Plaintiffs,	)	CIVIL ACTION
- vs -	)	No. 70-3029
THE CITY OF CHICAGO, a Municipal Corporation; COOK COUNTY, ILLINOIS, a Local Public Corporation; EDWARD V. HANRAHAN; RICHARD S. JALOVEC; DANIEL GROTH; RAY BRODERICK; EDWARD CARMODY; JOHN CISZEWSKI; WILLIAM CORBETT; JAMES DAVIS; JOSEPH GORMAN; LYNWOOD HARRIS; TRED EDWARD; ROBERT HUGHES; GEORGE JONES; PHILIP JOSEPH; WILLLAM KELLY; JOHN MADUSICH; RICHARD J. DALEY, Mayor of the City of Chicago; JAMES D. CONLISK, Superintendent, Chicago Police Department; JOHN MULCHRONE; HARRY KAVANAUGH; JOHN MEADE; ROBERT KUKOWINSKI; JAMES WALTHOUR; SHELDON SOROSKY; DAVID PUNKELL; CHARLES KOLUDROVIC; JOHN SADUNAS; JOHN DOE; RICHARD ROE; JAMES DOE; and OTHERS NOT PRESENTLY KNOWN TO THE PLAINTIFFS, Defendants.	)	COMPLAINT FOR DAMAGES

JURISDICTION

1. This is a civil action seeking redress against the defendants for committing acts under color of law, depriving the plaintiffs of their rights under the Constitution and laws of the United States. Specifically, some or all of the defendants,

while acting in their individual and official capacities as Chicago policemen, state's attorney's police, and as state, county, and city officials, on December 4, 1969, assaulted the plaintiffs with deadly weapons, caused serious bodily injury to some of the plaintiffs, and thereafter imprisoned the plaintiffs falsely and prosecuted them wrongfully and maliciously in an attempt to conceal the true nature of the occurrences of December 4, 1969. By these acts committed under color of state law, the defendants deprived the plaintiffs of their rights, privileges and immunities as guaranteed by the First, Fourth, Fifth, Eighth, Ninth, Thirteenth and Fourteenth Amendments to the Constitution of the United States and protected under 42 U.S.C., Sections 1981, 1982, 1983, 1985, 1986, and 1988.

2. The jurisdiction of this Court is further invoked pursuant to 28 U.S.C., Sections 1331 and 1343. The amount in controversy, exclusive of interest and costs, exceeds the sum or value of ten thousand dollars.

3. Copies of notices sent in accordance with Illinois Revised Statutes, Ch. 65, Section 8-102 are attached hereto as Appendix A and hereby made a part of this Complaint.

PARTIES

A. Plaintiffs

4. Plaintiff RONALD SATCHEL is a resident and citizen of the City of Chicago, the State of Illinois, and the United States.

Plaintiff SATCHEL, a black male, is a minor of twenty years of age, and is suing by his next friend, CLARA BRIDGES.

5. Plaintiff DEBORAH JOHNSON, a black female of nineteen years of age, is a resident and citizen of the City of Chicago, the State of Illinois, and the United States.

6. Plaintiff HAROLD DELL, a black male of twenty-three years of age, is a resident and citizen of the City of Rockford, the State of Illinois, and the United States.

7. Plaintiff BRENDA HARRIS, a black female of eighteen years of age, is a resident and citizen of the City of Chicago, the State of Illinois, and the United States.

8. Plaintiff BLAIR ANDERSON is a resident and citizen of the City of Chicago, the State of Illinois, and the United States. Plaintiff ANDERSON, a black male, is a minor of nineteen years of age, and is suing by his next friend BENJAMIN [redacted] HESTER.

9. Plaintiff LOUIS TRUELUCK, a black male of thirty-nine years of age, is a resident of the City of Chicago and State of Illinois, and a citizen of the United States.

10. At the time of the raid hereinafter alleged, and at the inception of the conspiracy that was allegedly formed to suppress the true nature of that raid, all Plaintiffs were members of the

Black Panther Party.

B. Defendants

11. Defendant HANRAHAN was at all times material to this complaint the duly elected State's Attorney for Cook County, Illinois. Defendant HANRAHAN had supervisory authority over all Assistant State's Attorneys in the office of the State's Attorney for Cook County, including defendants JALOVEC, MELTREGER, and SOROSKY, and supervisory authority over all officers of the Chicago Police Department assigned to the office of the State's Attorney for Cook County, including defendants GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, and MARUSICH.

12. Defendant JALOVEC was, at all times material to the complaint, a duly appointed Assistant State's Attorney for Cook County, Illinois, and in charge of the Special Prosecutions Unit of said State's Attorneys office. Defendant JALOVEC was the immediate supervisor of defendant GROTH and the police officers in Groth's unit, and he represented some or all of those defendants in the purported investigation of this matter by the Internal Inspections Division of the Chicago Police Department.

13. Defendants GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY and MARUSICH were, at all times material to this complaint, duly

appointed police officers of the City of Chicago, detailed to and/or on detached service with the Cook County State's Attorney's Office as State's Attorney's Police.

14. Defendant DALEY, at all times material to this complaint, was the duly elected Mayor of the City of Chicago, State of Illinois. In that capacity, he had appointed Defendant CONLISK to serve, subject to Defendant DALEY's continuing approval, as Superintendent of Police. Through his control over the office of Superintendent of Police, Defendant DALEY, at all times material to this complaint, had the power to direct the activities of the Chicago Police Department and its employees.

15. Defendant CONLISK, at all times material to this complaint, was the duly appointed Superintendent and Chief Executive Officer of the Chicago Police Department. In that capacity, he was responsible for the general management and control of the police department and had full and complete authority to administer the department, including the operations of the Internal Inspections Division and the Crime Laboratory of the Chicago Police Department.

16. Defendant MULCHRONE was, at all times material to this complaint, a duly appointed Deputy Superintendent of the Chicago Police Department with supervisory responsibility for the Internal Inspections Division of the Chicago Police Department.

17. Defendant ERVANIAN, at all times material to this complaint, was a Captain of the Chicago Police Department and Director of the Internal Inspections Department of the Chicago Police Department.

18. Defendant MEADE, at all times material to this complaint, was a duly appointed Sergeant in the employ of the Chicago Police Department. He was assigned special responsibility for the investigation by the Internal Inspections Division of the raid staged on December 4, 1969, on the apartment occupied by plaintiffs.

19. Defendant KUKOWINSKI, at all times material to this complaint, was a Lieutenant on the Chicago Police Department and the head of the Excessive Force Unit of the Internal Inspections Division of the Chicago Police Department.

20. Defendants SOROSKY and MELTREGER, at all times material to this complaint, were duly appointed Assistant State's Attorneys for Cook County, Illinois. Both were assigned to the Special Prosecutions Unit under the supervision of Defendant JALOVEC, and both represented Defendant State's Attorney's police in the purported investigation of this matter by the Internal Inspections Division of the Chicago Police Department.

21. Defendant PURTELL, at all times material to this complaint, was a duly appointed official in the Chicago Police Department and

Director of the Crime Laboratory of the Chicago Police Department.

22. Defendant SADUNAS, at all times material to this complaint, was a duly appointed Firearms Examiner in the Crime Laboratory of the Chicago Police Department, who examined ballistics material recovered from the apartment occupied by Plaintiffs.

23. Defendant KOLUDROVIC, at all times material to this complaint, was a duly appointed Sergeant in the Chicago Police Department and a supervising officer of the Mobile Crime Laboratory Unit of the Chicago Police Department Crime Laboratory. In his capacity as supervisor of the Mobile Crime Lab, defendant KOLUDROVIC was responsible for the careful and impartial investigation of the scene of every violent crime for the purpose of locating, gathering, labelling, photographing, and evaluating all items that might prove helpful as physical evidence found at the scene. In this capacity, defendant KOLUDROVIC was called to 2337 West Monroe Street, Chicago, on the morning of December 4, 1969.

24. Defendant JAMES DOE, at all times material to this complaint, was an evidence technician of the Area Task Force of the Chicago Police Department. In this capacity as an evidence technician, defendant JAMES DOE was responsible for the careful and impartial investigation of the scene of every violent crime for the purpose of locating, photographing, gathering, labelling, and evaluating all items that might prove helpful as physical

evidence found at the scene. In this capacity, defendant JAMES DOE was called to 2337 West Monroe Street, Chicago on the morning of December 4, 1969.

25. Defendant RICHARD ROE, at all times material to this complaint, was a duly appointed Sergeant of the Chicago Police Department, assigned to the Excessive Force Unit of the Internal Inspections Division of the Chicago Police Department. He was the immediate interrogator of Defendants GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY,and MARUSICH in the purported investigation of this matter by the Internal Inspections Division.

26. Defendant JOHN DOE, and others not presently known to the plaintiffs, at all times material to this complaint, were Chicago policemen, State's Attorney's Police, and other Federal, State, County and City officials and agents who participated in the planning and execution of a raid on 2337 West Monroe Street, Chicago, and subsequent proceedings concerning that raid, including the purported investigation of the matter by the Internal Inspections Division of the Chicago Police Department, the inquest into the deaths of Fred Hampton and Mark Clark conducted by the Coroner of Cook County, and the presentation of criminal charges against plaintiffs to the Cook County Grand Jury of January 1970.

27. All defendants are sued in both their individual and official capacities.

28. On information and belief, all defendants are residents and citizens of the County of Cook, State of Illinois, and of the United States.

COUNT ONE

/Intentional deprivation of civil rights by illegal entry, assault, battery, and other illegal acts./

29. Plaintiffs allege and reallege paragraphs 1-28 with the same force and effect as if fully set forth herein.

30. At some time or times on or prior to the morning of December 4, 1969, defendants HANAHAN, JALOVEC, GROTH, DAVIS, CARMODY, CISZEWSKI, GORMAN, JONES, HUGHES, JOSEPH, MARUSICH, HARRIS, HOWARD, CORBETT, KELLY, BRODERICK, DOE, and others not presently known to the plaintiffs met in various groups and thereby together planned a raid upon the apartment located at 2337 West Monroe Street, Chicago, Illinois, occupied by the plaintiffs.

31. At approximately 4:45 a.m., on December 4, 1969, defendants GROTH, DAVIS, CARMODY, CISZEWSKI, CORBETT, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, and others not presently known to the Plaintiffs, under color of a search warrant illegally obtained from state authorities,

and otherwise under color of law, illegally forced entry into the apartment at 2337 West Monroe, Chicago, Cook County, Illinois, occupied by Plaintiffs.

32. After effecting this illegal entry, some or all of said defendants, under color of law but without justification, fired with submachine guns, shotguns and other weapons almost one hundred shots into the rooms occupied by plaintiffs JOHNSON, SATCHEL, BELL, ANDERSON, HARRIS, and TRUELUCK.

33. This gunfire grievously wounded Plaintiffs SATCHEL, ANDERSON, and HARRIS.

34. Plaintiff JOHNSON'S fiance, FRED HAMPTON, was killed in her presence by bullets fired by one or more of the defendants who entered this apartment.

35. Some or all of these defendants, acting under color of law as police officers, physically abused, immodestly exposed, verbally abused and illegally arrested Plaintiff JOHNSON, who was eight months pregnant.

36. Some or all of these defendants, acting under color of law as police officers, physically and verbally abused and illegally arrested Plaintiffs SATCHEL, BELL, ANDERSON, HARRIS, and TRUELUCK.

37. Said defendants did illegally search and ransack the

above-mentioned apartment. Under color of law but without justification, said defendants took money, damaged and destroyed personal property of the plaintiffs, and spoliated the evidence of the illegal acts committed by said defendants.

38. As a direct and proximate result of the afore-mentioned acts of the defendants, plaintiffs SATCHEL, HARRIS, JOHNSON, BELL, ANDERSON and TRUELUCK have suffered injury and mental anguish, and will continue to so suffer in the future. Plaintiffs HARRIS, ANDERSON, and SATCHEL have spent much time in the hospital, have undergone numerous operations , and have received permanent physical injury which has caused physical pain and suffering in the past and will continue to cause such pain.

39. Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, and others not presently known to the plaintiffs, willfully, maliciously, and with specific intent planned and executed the acts as alleged in Paragraphs 30-38. These acts directly and proximately caused the serious injury to each and all plaintiffs. This unjustifiable use of excessive and deadly force by these defendants, acting under color of law, deprived the plaintiffs of their rights, privileges and immunities as guaranteed by the Constitution and laws of the United States and protected

under 42 U.S.C. sections 1981 et seq., particularly Section 1983.

40. The unlawful and sadistic acts of said defendants, who attacked Plaintiffs as members of the Black Panther Party. because of their beliefs, thoughts, words, and associations, deprived the Plaintiffs of their right to free speech, expression, association, and assembly as guaranteed by the First Amendment to the Constitution of the United States.

41. Plaintiffs were deprived of their right to be free from illegal searches and seizures as guaranteed by the Fourth Amendment to the Constitution of the United States by the defendants' illegal entry into and pillaging of the apartment occupied by plaintiffs.

42. Plaintiffs were deprived of their right to life, liberty and property as guaranteed by the Fifth and Fourteenth Amendments to the Constitution of the United States by their illegal and summary punishment by said defendants, which not only denied the plaintiffs due process of law but flaunted that denial to create fear and terror in the Black Community of Chicago.

43. Plaintiffs were deprived of their right to be free from cruel and unusual punishment as guaranteed by the Eighth Amendment to the Constitution of the United States, by the defendants' brutal, unjustifiable, and summary punishment of said plaintiffs.

44. Plaintiffs were deprived of their right to privacy as guaranteed by the Ninth Amendment to the Constitution of the United States by said defendants' illegal entry and unjustifiable use of deadly and excessive force.

45. The deprivation of rights guaranteed to the plaintiffs by the First, Fourth, Fifth, Eighth and Ninth Amendments are protected against state action by the due process clause of the Fourteenth Amendment. to the Constitution of the United States.

46. These acts perpetrated on plaintiffs as black citizens were so contrary to all standards of humanity and to all standards of constitutional government by law that plaintiffs were thereby deprived of their right to be free from badges and indicia of slavery as guaranteed by the Thirteenth Amendment to the Constitution of the United States.

47. Plaintiffs were deprived of their right to equal protection of the laws as guaranteed by the Fourteenth Amendment to the Constitution of the United States as said defendants under color of law did shoot, wound, and brutalize the Plaintiffs because of their race and political beliefs.

WHEREFORE PLAINTIFF RONALD SATCHEL, by his next friend CLARA BRIDGES, demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, and others not presently known to him, jointly and

severally, compensatory damages in the amount of $200,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $200,000 plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper, and equitable.

WHEREFORE PLAINTIFF DEBORAH JOHNSON demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, and others not presently known to her, jointly and severally, for compensatory damages in the amount of $100,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $200,000 plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper, and equitable.

WHEREFORE PLAINTIFF HAROLD BELL demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, and others not presently known to him, jointly and severally, for compensatory damages in the amount of $100,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $200,000 plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper, and equitable.

WHEREFORE PLAINTIFF BRENDA HARRIS demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI,

CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, and others not presently known to her, jointly and severally, compensatory damages in the amount of $200,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $200,000 plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper, and equitable.

WHEREFORE PLAINTIFF BLAIR ANDERSON, by his next friend BENJAMIN [redacted] HESTER, demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, and others not presently known to him, jointly and severally, compensatory damages in the amount of $200,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $200,000 plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper, and equitable.

WHEREFORE PLAINTIFF LOUIS TRUELUCK demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, and others not presently known to him, jointly and severally, compensatory damages in the amount of $100,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of

$200,000 plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper, and equitable.

COUNT TWO

/Negligent deprivation of civil rights by illegal entry, assault, battery, and other illegal acts./

48. Plaintiffs allege and reallege paragraphs 1-47 with the same force and effect as if fully set forth herein.

49. Defendants GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, HARRIS, HOWARD, and others not presently known to the plaintiffs, under color of law, negligently used deadly and excessive force to assault plaintiffs, and illegally forced entry into the apartment at 2337 West Monroe, Chicago, Cook County, Illinois, and by those illegal acts did directly and proximately cause serious injury, pain, suffering and humiliation to plaintiffs SATCHEL, JOHNSON, BELL, HARRIS, ANDERSON, and TRUELUCK, depriving them of their rights, privileges and immunities guaranteed by the Constitution and laws of the United States, as set forth in Count One above, particularly Paragraphs 40-47, and protected under 42 U.S.C., Sections 1981 et seq., particularly Section 1983.

50. Defendants HANRAHAN, JALOVEC, GROTH, JOHN DOE and others not presently known to the Plaintiffs, acting under

color of state law, statute, ordinance, custom and usage, did negligently plan and create a situation where deadly and excessive force was likely to be used by planning to take on the raid of 2337 West Monroe Street excessive firearm weaponry; by planning to execute the raid in the early morning hours of December 4, 1969, when Defendants knew persons would be present in the apartment, rather than at a time when they knew the apartment to be vacant; by failing to equip the raiding party with tear gas or other means for peacefully subduing the occupants of the apartment if said occupants should resist service of the search warrant; and, on information and belief, in sending on this assignment officers who in the past had been found by the Chicago Police Department to have used excessive and deadly force to do damage to citizens in the black community. Said Defendants did thereafter negligently permit the use of deadly and excessive force, which proximately and directly caused serious injury, physical pain and suffering to Plaintiffs SATCHEL, HARRIS, and ANDERSON, and serious injury to Plaintiffs JOHNSON, BELL, and TRUELUCK, depriving them of their rights, privileges and immunities guaranteed by the Constitution and laws of the United States, as set forth in Count One above, and particularly Paragraphs 40-47, and protected under 42 U.S.C., Sections 1981 et seq., particularly Section 1983.

WHEREFORE PLAINTIFF RONALD SATCHEL, by his next friend CLARA BRIDGES, demands judgment against Defendants HANRAHAN,

JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, and others not presently known to him, jointly and severally, compensatory damages in the amount of $200,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $200,000 plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper, and equitable.

WHEREFORE PLAINTIFF DEBORAH JOHNSON demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, and others not presently known to her, jointly and severally, for compensatory damages in the amount of $100,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $200,000 plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper, and equitable.

WHEREFORE PLAINTIFF HAROLD BELL demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, and others not presently known to him, jointly and severally, for compensatory damages in the amount of $100,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of

$200,000 plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper, and equitable.

WHEREFORE PLAINTIFF BRENDA HARRIS demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, and others not presently known to her, jointly and severally, compensatory damages in the amount of $200,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $200,000 plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper, and equitable.

WHEREFORE PLAINTIFF BLAIR ANDERSON, by his next friend BENJAMIN HESTER, demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, and others not presently known to him, jointly and severally, compensatory damages in the amount of $200,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $200,000 plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper, and equitable.

WHEREFORE PLAINTIFF LOUIS TRUELUCK demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, and others not presently known to him,

jointly and severally, compensatory damages in the amount of $100,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $200,000 plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper, and equitable.

COUNT THREE

/Conspiracy for deprivation of Equal Protection of the Laws by illegal entry, assault, battery, and other illegal acts/

51. Plaintiffs allege and reallege Paragraphs 1-50 with the same force and effect as if fully set forth herein.

52. Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, and other defendants not presently known to the plaintiffs, prior to the illegal raid of December 4, 1969, upon 2337 West Monroe Street, Chicago, Illinois, met and planned this illegal raid and agreed and conspired together to enter the apartment illegally and to use excessive and deadly force upon the occupants of 2337 West Monroe Street, which occupants included Plaintiffs SATCHEL, JOHNSON, BELL, HARRIS, ANDERSON, and TRUELUCK. Each defendant did agree to and did plan this raid with the knowledge and purpose that it would deprive said occupants of their rights,

privileges, and immunities including the Equal Protection of the Laws, as guaranteed under the Constitution and laws of the United States, specifically 42 U.S.C., Sections 1983 and 1985. Said defendants did purposefully plan, while acting under the guise and color of state law, statutes, and customs, to discriminate against the occupants of 2337 West Monroe Street because they are members of the black race and because of their political beliefs. Acting in accordance with this plan and conspiracy, under color of state law, the defendants did execute this illegal raid and did use brutal and excessive force, as set forth in the overt acts alleged in Paragraphs 30-37, above. This course of conduct by the defendants proximately caused serious injury to the plaintiffs, as alleged in Paragraphs 31-47, and deprived them of the Equal Protection of the Laws.

WHEREFORE PLAINTIFF RONALD SATCHEL, by his next friend CLARA BRIDGES, demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, and others not presently known to him, jointly and severally, compensatory damages in the amount of $200,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $200,000 plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper, and equitable.

WHEREFORE PLAINTIFF DEBORAH JOHNSON demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, and others not presently known to her, jointly and severally, for compensatory damages in the amount of $100,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $200,000 plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper, and equitable.

WHEREFORE PLAINTIFF HAROLD BELL demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, and others not presently known to him, jointly and severally, for compensatory damages in the amount of $100,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $200,000 plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper, and equitable.

WHEREFORE PLAINTIFF BRENDA HARRIS demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, and others not presently known to her, jointly and severally, compensatory damages in the amount of $200,000, and further demands judgment against said defendants,

jointly and severally, for punitive damages in the amount of $200,000 plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper, and equitable.

WHEREFORE PLAINTIFF BLAIR ANDERSON, by his next friend BENJAMIN HESTER, demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, and others not presently known to him, jointly and severally, compensatory damages in the amount of $200,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $200,000 plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper, and equitable.

WHEREFORE PLAINTIFF LOUIS TROELUCK demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, and others not presently known to him, jointly and severally, compensatory damages in the amount of $100,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $200,000 plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper, and equitable.

COUNT FOUR

/Neglect to prevent harm from conspiracy for deprivation of civil rights by illegal entry, assault, and other illegal acts./

53. Plaintiffs allege and reallege paragraphs 1-52 with the same force and effect as if fully set forth herein.

54. Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, and others not presently known to the Plaintiffs did have knowledge of the conspiracy as alleged in Paragraph 51 to deprive Plaintiffs SATCHEL, JOHNSON, BELL, ANDERSON, HARRIS, and TRUELUCK of the Equal Protection of the Laws as guaranteed by the Constitution and laws of the United States, prior to the execution of this illegal raid. These defendants, as immediate superiors of the raiding party or as co-participants in the raid, did have the power to prevent the committing of these illegal acts against the Plaintiffs and did neglect and refuse to prevent these illegal acts. These illegal acts were committed during the raid upon the apartment occupied by Plaintiffs and did proximately cause serious injury to them as alleged in Paragraphs 31-47, contrary to the provisions of 42 U.S.C., Section 1986.

WHEREFORE PLAINTIFF RONALD SATCHEL, by his next friend CLARA BRIDGES, demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH,

JOHN DOE, and others not presently known to him, jointly and severally, compensatory damages in the amount of $200,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $200,000 plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper, and equitable.

WHEREFORE PLAINTIFF DEBORAH JOHNSON demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, and others not presently known to her, jointly and severally, for compensatory damages in the amount of $100,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $200,000 plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper, and equitable.

WHEREFORE PLAINTIFF HAROLD BELL demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, and others not presently known to him, jointly and severally, for compensatory damages in the amount of $100,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $200,000, plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper, and equitable.

WHEREFORE PLAINTIFF BRENDA HARRIS demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, and others not presently known to her, jointly and severally, compensatory damages in the amount of $200,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $200,000 plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper, and equitable.

WHEREFORE PLAINTIFF BLAIR ANDERSON, by his next friend BENJAMIN [redacted] HESTER, demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, and others not presently known to him, jointly and severally, compensatory damages in the amount of $200,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $200,000 plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper, and equitable.

WHEREFORE PLAINTIFF LOUIS TRUELUCK demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, and others not presently known to him, jointly and severally, compensatory damages in the amount of $100,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of

$200,000 plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper, and equitable.

COUNT FIVE

/Intentional deprivation of civil rights by false imprisonment/

55. Plaintiffs allege and reallege Paragraphs 1-54 with the same force and effect as if fully set forth herein.

56. Defendants HANAHAN, GALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, COMETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, and others not presently known to the Plaintiffs did willfully, maliciously, and with specific intent cause all plaintiffs to be incarcerated without legal cause, to be precluded from gaining their liberty on bail, and to be prevented from demonstrating the lack of foundation of the charges against them, thereby causing them to be deprived of their liberty without due process of law, in violation of the Fifth and Fourteenth Amendments of the Constitution of the United States, and in violation of rights protected under 42 U.S.C. Section 1983.

57. Said defendants did cause Plaintiffs to be deprived of their liberty by pressing against each of them charges of attempted murder and aggravated battery that said defendants knew to be wholly unfounded; by demanding that bail on these charges be set

at $100,000 for each Plaintiff, an amount defendants knew to be prohibitive for Plaintiffs and an amount designed by defendants to prevent Plaintiffs from making bail and gaining their freedom; and by preventing Plaintiffs from obtaining a preliminary hearing on December 5, 1969, whereby Plaintiffs could have shown the lack of foundation of the charges.

58. The acts of said defendants were further intended to prevent Plaintiffs from telling the public of the defendants' murderous conduct at 2337 West Monroe, Chicago, thereby intending to chill the exercise by Plaintiffs of their right of free speech guaranteed by the First Amendment of the Constitution of the United States and 42 U.S.C., Section 1983.

59. As a result of the false charges lodged by these defendants, each Plaintiff was imprisoned falsely under color of law for eighteen days, from December 4, 1969, to December 21, 1969.

60. As a direct and proximate result of these false charges lodged by these defendants, Plaintiffs SATCHEL, JOHNSON, BELL, ANDERSON, HARRIS, and TRUELUCK suffered serious injury to his reputation and severe mental anguish.

WHEREFORE PLAINTIFF RONALD SATCHEL, by his next friend CLARA BRIDGES, demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, and others not presently known to him, jointly and severally, compensatory damages in the amount of $100,000, and

further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $100,000 plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper, and equitable.

WHEREFORE PLAINTIFF DEBORAH JOHNSON demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, and others not presently known to her, jointly and severally, for compensatory damages in the amount of $100,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $100,000 plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper, and equitable.

WHEREFORE PLAINTIFF HAROLD BELL demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, and others not presently known to him, jointly and severally, for compensatory damages in the amount of $100,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $100,000, plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper, and equitable.

WHEREFORE PLAINTIFF BRENDA HARRIS demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH,

KELLY, MARUSICH, JOHN DOE, and others not presently known to her, jointly and severally, compensatory damages in the amount of $100,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $100,000 plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper, and equitable.

WHEREFORE PLAINTIFF BLAIR ANDERSON, by his next friend [redacted] HESTER, demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, and others not presently known to him, jointly and severally, compensatory damages in the amount of $100,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $100,000 plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper, and equitable.

WHEREFORE PLAINTIFF LOUIS TRUELUCK demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, and others not presently known to him, jointly and severally, compensatory damages in the amount of $100,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $100,000 plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper, and equitable.

COUNT SIX

[Conspiracy for deprivation of Equal Protection of the Laws by false imprisonment.]

61. Plaintiffs allege and reallege paragraphs 1-60 with the same force and effect as if fully set forth herein.

62. Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, and others not presently known to the Plaintiffs on December 4, 1969, did meet and plan to lodge against Plaintiffs charges they knew to be wholly unfounded, and did agree and conspire together to cause Plaintiffs SATCHEL, JOHNSON, BELL, HARRIS, ANDERSON, and TRUELOCK to be imprisoned illegally. Each defendant did agree to and did plan to place these charges with the knowledge and purpose that they would deprive Plaintiffs of their rights, privileges, and immunities as guaranteed under the First, Fifth, and Fourteenth Amendments of the Constitution of the United States, and protected under 42 U.S.C., Sections 1983 and 1985. They did purposely plan, while acting under the guise and color of state law, statutes, and customs, to discriminate against the Plaintiffs because they are members of the black race and because of their political beliefs and associations. Acting in accordance with this plan and conspiracy, some or all of these defendants knowingly pressed false charges of attempted murder and aggravated battery, knowingly demanded prohibitively high bail of $100,000 on Plaintiffs, and willfully

denied Plaintiffs a preliminary hearing. This conspiracy and these overt acts by defendants did proximately cause Plaintiffs' illegal imprisonment, as set forth in paragraphs 56-60, depriving them of rights under the First, Fifth and Fourteenth Amendments of the Constitution of the United States, including the right to Equal Protection of the Laws.

WHEREFORE PLAINTIFF RONALD SATCHEL, by his next friend CLARA BRIDGES, demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, and others not presently known to him, jointly and severally, compensatory damages in the amount of $100,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $100,000 plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper, and equitable.

WHEREFORE PLAINTIFF DEBORAH JOHNSON demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, and others not presently known to her, jointly and severally, for compensatory damages in the amount of $100,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $100,000 plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper,

and equitable.

WHEREFORE PLAINTIFF HAROLD CELL demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, and others not presently known to him, jointly and severally, for compensatory damages in the amount of $100,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $100,000, plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper, and equitable.

WHEREFORE PLAINTIFF BRENDA HARRIS demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, and others not presently known to her, jointly and severally, compensatory damages in the amount of $100,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $100,000 plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper and equitable.

WHEREFORE PLAINTIFF BLAIR ANDERSON, by his next friend BENJAMIN [redacted] HESTER, demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, and others not presently known to him, jointly and severally, compensatory damages in the amount of $100,000, and further demands judgment against said defendants, jointly and

severally, for punitive damages in the amount of $100,000 plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper, and equitable.

WHEREFORE PLAINTIFF LOUIS TRUELUCK demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, and others not presently known to him, jointly and severally, compensatory damages in the amount of $100,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $100,000 plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper, and equitable.

COUNT SEVEN

/Neglect to prevent harm from conspiracy for deprivation of Equal Protection of the Laws by false imprisonment./

63. Plaintiffs allege and reallege paragraphs 1-62 with the same force and effect as if fully set forth herein.

64. Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, and others not presently known to the Plaintiffs did have knowledge of the conspiracy as alleged in paragraph 62 to deprive Plaintiffs of the Equal Protection of the Laws as guaranteed by the Constitution and laws of the United States,

prior to the lodging of the false charges of attempted murder and aggravated battery, and throughout the period during which Plaintiffs were illegally confined. These defendants did have the authority and power to prevent the committing of these illegal acts against the Plaintiffs and did neglect and refuse to prevent these illegal acts. These illegal acts did proximately cause injury to Plaintiffs, as set forth above in paragraphs 56-60, contrary to the provisions of 42 U.S.C. Section 1986.

WHEREFORE PLAINTIFF RONALD SYCHLE, by his next friend CLARA BRIDGES, demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CAHOODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, and others not presently known to him, jointly and severally, compensatory damages in the amount of $100,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $100,000 plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper, and equitable.

WHEREFORE PLAINTIFF DEBORAH JOHNSON demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CAHOODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, and others not presently known to her, jointly and severally, for compensatory damages in the amount of $100,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $100,000 plus the cost of this action, attorney's

fees and such other relief as to this court seems just, proper, and equitable.

WHEREFORE PLAINTIFF HAROLD BELL demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, and others not presently known to him, jointly and severally, for compensatory damages in the amount of $100,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $100,000, plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper, and equitable.

WHEREFORE PLAINTIFF BRENDA HARRIS demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, and others not presently known to her, jointly and severally, compensatory damages in the amount of $100,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $100,000 plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper and equitable.

WHEREFORE PLAINTIFF BLAIR ANDERSON, by his next friend BENJAMIN HESTER, demands judgment against Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, and others not presently known to him, jointly and severally, compensatory damages in the amount of $100,000, and

further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $100,000 plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper, and equitable.

WHEREFORE PLAINTIFF LOUIS TAYLOR demands judgment against Defendants HANAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, JOHN DOE, and others not presently known to him, jointly and severally, compensatory damages in the amount of $100,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $100,000 plus the cost of this action, attorney's fees and such other relief as to this court seems just, proper, and equitable.

COUNT EIGHT

/Conspiracy for deprivation of Equal Protection of the Laws by wrongful and malicious prosecution./

65. Plaintiffs allege and reallege paragraphs 1-64 with the same force and effect as if fully set forth herein.

66. Some or all of defendants HANAHAN, JALOVEC, SOROSKY, MELTREGER, MULCHAONE, ERVANIAN, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, NEARE, KUKOWINSKI, PURTELL, SADUNAS, KOLUDROVIC, JAMES DOE, RICHARD ROE, JOHN DOE, and

others not presently known to the Plaintiffs met from time to time with some or all of the other defendants named in this Paragraph and planned, agreed and conspired together with the purpose of and intent to use their official positions in state and local government to deprive Plaintiffs SATCHEL, JOHNSON, BELL, ANDERSON, HARRIS, and TRUELUCK of the Due Process Law and of the Equal Protection of the Laws by instituting against Plaintiffs a prosecution for attempted murder, aggravated battery and other offenses that defendants knew to be false and fraudulent. Acting under color of state law, ordinances, statutes, custom, and usage, said defendants, although they knew that there was no justifiable reason to arrest or prosecute the Plaintiffs, arrested Plaintiffs for the purpose of suppressing and distorting the true nature and extend of defendants' own wrongdoing at 2337 West Monroe, Chicago, on December 4, 1969, in brutally and illegally injuring and humiliating Plaintiffs and brutally killing other occupants of that apartment, Fred Hampton and Mark Clark.

67. Some or all of defendants HANRAHAN, JALOVEC, MELTREGER, SOROSKY, MULCHRONE, ERVANIAN, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, MEADE, KUKOWINSKI, PURTELL, KOLUDROVIC, SADUNAS, JAMES DOE, RICHARD ROE, JOHN DOE, and others not presently known to the Plaintiffs met from time to time after

5 a.m. on December 4, 1969, with some or all of the other defendants named in this Paragraph and, acting under color of state law, ordinances, statutes, custom and usage, did plan, agree and conspire together to deprive Plaintiffs of the Due Process of Law and of the Equal Protection of the Laws by preparing and circulating to the public, official reports that purported to justify the continuation of the proceedings against the Plaintiffs and that continued to suppress the true nature of the actions of some or all of the defendants on December 4, 1969. These reports, all calculated by the defendants to falsify and distort the occurrences of the brutal raid of December 4, 1969, included both official statements to the news media and a series of formal proceedings including an investigation by the Internal Inspections Division of the Chicago Police Department, an inquest conducted by the Cook County Coroner's Office into the deaths of Fred Hampton and Mark Clark, and the presentation of the false charges to the Cook County Grand Jury for January 1970. The reports also included the investigation of the premises at 2337 West Monroe, Chicago, and purported ballistics and scientific analysis performed by the Crime Laboratory of the Chicago Police Department.

68. Some or all of defendants HANRAHAN, JALOVEC, MELTREGER, SOROSKY, MULCHRONE, ERVANIAN, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, MEADE, KUKOJINSKI, PURTELL, KOLUDROVIC, SADUNAS,

JAMES DOE, RICHARD ROE, JOHN DOE, and others not presently known to the Plaintiffs willfully and maliciously furthered the prosecution of Plaintiffs, known to said defendants to be unfounded, with the intent of discriminating against the Plaintiffs because they are members of the black race and because of their political beliefs and assocations, in violation of the First and Fourteenth Amendments to the Constitution of the United States, and of 42 U.S.C., Sections 1983 and 1985.

69. This conspiracy to suppress the true nature of the raid on 2337 West Monroe Street, Chicago, Illinois, at 4:45 a.m. on December 4, 1969, was to be furthered by means of the prosecution of Plaintiffs which was to be widely publicized in the public media and justified by erroneous descriptions of the events of the raid presented by Defendants at every formal and informal opportunity. In furtherance of the conspiracy, defendants committed the following overt acts, among others, all committed under color of law and with knowledge that the prosecutions of Plaintiffs were wholly unfounded, and committed with intent to suppress the true nature of the raid:

a. Defendants GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, and MARUSICH arrested Plaintiffs at about 5:00 a.m. on December 4, 1969, and subsequently lodged charges of attempted

murder and aggravated battery, which defendants knew to be completely unfounded, against all plaintiffs.

b. Defendants GROTH, BADALICH, CALHOUN, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, and MARUSICH, in violation of normal investigating procedures, prohibited the evidence technicians from the Crime Lab and the Mobile Crime Lab of the Chicago Police Department from gathering evidence until the above-named defendants had picked up many items themselves; said procedure was adopted by defendants in order to obscure the true nature of their brutal and murderous conduct during the raid on the apartment.

c. When the Defendant State's Attorney's police had left 2337 West Monroe Street, on the morning of December 4, 1969, Defendant KOLUDROVIC, as Supervising sergeant of the Mobile Crime Lab, Defendant JAMES DOE, and members of the Mobile Crime Lab not presently known to the Plaintiffs, did intentionally limit their investigation of the physical evidence in the apartment to a search for evidence of any shots that might have been fired by the occupants of the apartment; the failure of these Defendants to examine the premises and its contents for the purpose of determining the nature and extent of the shots fired by the Defendant State's Attorney's police was intended to obscure the true nature of the events that had transpired in the apartment.

d. Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, and MARUSICH, on December 4, 1969, caused charges of attempted murder and aggravated battery, which charges Defendants knew to be unfounded, to be lodged against all Plaintiffs for the purpose of causing the illegal incarceration of Plaintiffs and in order to suppress the true nature of their raid.

e. Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, and MARUSICH met together on the morning of December 4, 1969, after the conclusion of the raid, and prepared a composite version of the events of the raid that would justify the wanton brutality practiced by the defendants during their raid.

f. Defendants HANRAHAN, JALOVEC, and GROTH released parts of this falsified account of the raid to the press, radio and television on December 4, 1969.

g. Defendant HANRAHAN and others not presently known to the Plaintiffs denied Plaintiffs a preliminary hearing on December 5, 1969, thereby shielding Defendant State's Attorney's Police from cross-examination that would have revealed the fabrications in their stories; defendant HANRAHAN thereby attempted to assure the success of a prosecution that he knew to be totally unfounded and forced Plaintiffs to remain incarcerated for two weeks in lieu of posting bail that

Defendant HANRAHAN knew to be prohibitively high.

h. On or about December 10, 1969, Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, and MARUSICH released in a detailed report with accompanying photographs, another distorted version of the events at 2337 West Monroe, Chicago, Illinois, on December 4, 1969, in order to obscure the true nature of defendants' conduct concerning the raid; this version was printed, as defendants intended, in the Chicago Tribune newspaper on December 11, 1969.

i. Defendants HANRAHAN, JALOVEC, and others not presently known to the Plaintiffs on or about December 11, 1969, staged and directed an exclusive, carefully rehearsed, and carefully edited television film, shown repeatedly in Chicago and throughout the country, which film depicted, through the words and actions of the Defendant-State's Attorney's police themselves, a description of the events of the raid that defendants knew to be false and erroneous.

j. Defendants GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY and MARUSICH on or about December 11, 1969, appeared on this exclusive television film, and some or all of them did thereon knowingly distort the description of the raid in which they had participated with the purpose of creating in the public mind a false and erroneous impression of the events that had transpired at 2337 West Monroe on December 4, 1969.

k. Defendant HANRAHAN on or about December 11, 1969, requested defendant CONLISK to have the Internal Inspections Division of the Chicago Police Department initiate a purported investigation of the raid for the purpose of presenting a false and distorted description of the raid in order to justify the conduct of the defendant State's Attorney's police and to justify the charges lodged against Plaintiffs.

l. Defendants MULCHRONE and SARVANIAN, as supervising officers of the Internal Inspections Division, on or about December 15, 1969, intentionally modified normal investigating procedures of the Division and intentionally limited the scope of the investigation for the express purpose of preventing any information contradictory to the false story already told by the Defendant State Attorney's police from emerging in that investigation, and for the express purpose of distorting the events of the raid so that the brutal conduct of the raiders would erroneously appear to the public to have been justified.

m. Defendant MEADE, on or about December 15, 1969, prepared the questions to be asked of the defendant State's Attorney's police in the Internal Inspections Division investigation and also prepared a set of proposed answers to these questions; Defendant MEADE purposely limited the questions prepared so as not to test the veracity of the defendant raiders nor to question in any way the accounts that said defendants had previously given of the raid, but

rather to enable the Internal Inspections Division formally to approve these defendants' earlier account as accurate in the Division's report to the public without any independent attempt to test the truthfulness of this account.

n. Defendants JALOVEC, SOROSKY, and MALTBERGER met with defendants MEADE and GROTH on or about December 16, 1969, to revise and approve the questions to be asked of the defendant State's Attorney's police and the answers that said defendant policemen were to give at the interrogation by the Internal Inspections Division so that no statements contradicting earlier statements by said Defendant policemen would be made, all in order that the report of the Internal Inspections Division would falsely and erroneously exonerate the Defendant policemen and justify their conduct on the raid and the subsequent prosecution of Plaintiffs.

o. Defendants JALOVEC, SOROSKY, and MALTBERGER met with said Defendant State's Attorney's police on or about December 16, 1969, prior to the interrogation by the Internal Inspections Division and informed said defendant policemen of the questions to be asked of them and of the proper answers they should give in order to justify their conduct and to justify the continued prosecution of Plaintiffs.

p. Defendant KUKOWINSKI, upon the direction of defendant MULCAHONE, on or about December 16, 1969, directed defendant RICHARD ROE, to limit the interrogation of the defendant State's

Attorney's police by the Internal Inspections Division to those questions prepared by Defendant MEADE in order to distort the findings of the investigation and enable the public report by the Internal Inspections Division to justify the conduct of said Defendants and to justify the unfounded prosecution of Plaintiffs.

q. Defendant RICHARD ROE and others not presently known to the Plaintiffs did limit their interrogation of Defendant State's Attorney's police on or about December 16, 1969, to those questions prepared by Defendant MEADE in order to distort the findings of the Internal Inspections Division and enable its public report to justify the unfounded prosecution of Plaintiffs.

r. Defendants GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, and MARUSICH testified falsely on or about December 16, 1969, in response to the questions asked of them by the Internal Inspections Division concerning the events of December 4, 1969.

s. Defendants GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, and MARUSICH testified falsely on or about January 8, 9, 12, 13, 14, 15, 16, and 19, 1970, concerning the events of December 4, 1969, at 2337 West Monroe, at the Inquest held by the Coroner of Cook County, Illinois.

t. Defendants SADUNAS and KOLUDROVIC, acting under the direction of superior officers unknown to the Plaintiffs, testified falsely on or about January 19, 20, and 21, 1970, at said inquest concerning the physical evidence removed from 2337 West Monroe and the analysis of said evidence, with intent to create an erroneous impression of Plaintiffs' conduct on December 4, 1969, and thereby to justify the conduct of Defendant State's Attorney's police and to justify the continuation of the unfounded prosecution of Plaintiffs.

u. Defendant HANRAHAN, acting through Defendant JALOVEC, or others not presently known to the Plaintiffs, did purposely obstruct the analysis of evidence by the Crime Lab of the Chicago Police Department by withholding from the Crime Lab the weapons used by the Defendant State's Attorney's police on the raid on December 4, 1969, and did thereby assist defendants PURTELL and SADUNAS in producing an incomplete, false and erroneous firearms report that misled the public into believing that Plaintiff HARRIS had fired at the Defendant State's Attorney's police, thereby justifying the continuation of the unfounded prosecution of Plaintiffs.

v. Defendants GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, SADUNAS, and others not presently known to the Plaintiffs, during January 1970, gave under oath testimony they knew to be false, inaccurate and misleading before the

Cook County Grand Jury for January 1970 in the case of People of the State of Illinois v. Brenda Harris et al., in order to continue the unfounded prosecution of Plaintiffs.

70. As a direct and natural result of this conspiracy carried out by the defendants, the prosecutions of Plaintiffs were continued until May 8, 1970. Each of the Plaintiffs incurred expenses for ballistics analyses and pathological examinations in the preparation of the defense to the unfounded prosecution. Each of the Plaintiffs also suffered serious injury to his reputation and severe mental anguish as a natural result of the extended continuation of the wrongful and malicious prosecutions.

WHEREFORE PLAINTIFF RONALD SATCHEL, by his next friend CLARA BRIDGES, demands judgment against Defendants HANRAHAN, JALOVEC, MELTZER, SOROSKY, MULCHRONE, ERVANIAN, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, MEADE, KUKOWINSKI, PURTELL, KOLUDROVIC, SADUNAS, JANES DOE, RICHARD ROE, JOHN DOE, and others not presently known to him, jointly and severally for compensatory damages in the amount of $200,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $200,000 plus the cost of this action, attorney's fees, and such other relief as to this court seems just, equitable and proper.

WHEREFORE PLAINTIFF DEBORAH JOHNSON demands judgment against Defendants HANRAHAN, JALOVEC, MELTREGER, SOROSKY, MULCHRONE, ERVANIAN, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, MEADE, KUKOWINSKI, PURTELL, KOLUDROVIC, SADUNAS, JAMES DOE, RICHARD ROE, JOHN DOE, and others not presently known to her, jointly and severally for compensatory damages in the amount of $200,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $200,000 plus the cost of this action, attorney's fees, and such other relief as to this court seems just, equitable and proper.

WHEREFORE PLAINTIFF HAROLD BELL demands judgment against Defendants HANRAHAN, JALOVEC, MELTREGER, SOROSKY, MULCHRONE, ERVANIAN, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, MEADE, KUKOWINSKI, PURTELL, KOLUDROVIC, SADUNAS, JAMES DOE, RICHARD ROE, JOHN DOE, and others not presently known to him, jointly and severally for compensatory damages in the amount of $200,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $200,000 plus the cost of this action, attorney's fees, and such other relief as to this court seems just, equitable and proper.

WHEREFORE PLAINTIFF BRENDA HARRIS demands judgment against Defendants HANRAHAN, JALOVEC, MELTREGER, SOROSKY, MULCHRONE,

ERVANIAN, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, MEADE, KUKOWINSKI, PURTELL, KOLUDROVIC, SADUNAS, JAMES DOE, RICHARD ROE, JOHN DOE, and others not presently known to her, jointly and severally for compensatory damages in the amount of $200,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $200,000 plus the cost of this action, attorney's fees, and such other relief as to this court seems just, equitable and proper.

WHEREFORE PLAINTIFF BLAIR ANDERSON, by his next friend, BENJAMIN HESTER, demands judgment against Defendants HANRAHAN, JALOVEC, MELTREGER, SOROSKY, MULCHRONE, ERVANIAN, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, MEADE, KUKOWINSKI, PURTELL, KOLUDROVIC, SADUNAS, JAMES DOE, RICHARD ROE, JOHN DOE, and others not presently known to him, jointly and severally for compensatory damages in the amount of $200,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $200,000 plus the cost of this action, attorney's fees, and such other relief as to this court seems just, equitable and proper.

WHEREFORE PLAINTIFF LOUIS TRUELUCK demands judgment against Defendants HANRAHAN, JALOVEC, MELTREGER, SOROSKY, MULCHRONE, ERVANIAN, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS,

GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, MEADE, KUKOWINSKI, PURTELL, KOLUDROVIC, SADUNAS, JAMES DOE, RICHARD ROE, JOHN DOE, and others not presently known to him, jointly and severally for compensatory damages in the amount of $200,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $200,000 plus the cost of this action, attorney's fees, and such other relief as to this court seems just, equitable and proper.

COUNT NINE

/Intentional deprivation of civil rights by wrongful and malicious prosecution./

71. Plaintiffs allege and reallege paragraphs 1-70 with the same force and effect as if fully set forth herein.

72. Some or all of defendants HANRAHAN, JALOVEC, MELTREGER, SOROSKY, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, MULCHRONE, EAVANIAN, MEADE, KUKOWINSKI, KOLUDROVIC, SADUNAS, JAMES DOE, RICHARD ROE, JOHN DOE, and others not presently known to the Plaintiffs intentionally, and/or with reckless disregard for the rights of Plaintiffs, acting under color of state law, ordinances, statutes, custom and usage, caused Plaintiffs to be arrested and prosecuted for attempted murder and aggravated battery, although they knew that there was no legal ground to arrest or prosecute Plaintiffs. Said defendants intentionally

did these acts for the purpose of suppressing and distorting the true nature and extent of defendants' own wrongdoing at 2337 West Monroe, Chicago, on December 4, 1969, in brutally and illegally injuring and humiliating Plaintiffs and brutally killing other occupants of that apartment. Said defendants further did these acts for the purpose of depriving Plaintiffs of their rights, privileges and immunities guaranteed by the Constitution and laws of the United States, and protected under 42 U.S.C., Section 1983.

73. Some or all of Defendants HANRAHAN, JALOVEC, BRODERICK, SOROSKY, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, MELTREGER, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, MULCHRONE, ERVANIAN, MEADE, KUKOWINSKI, CROWN, PURTELL, SADUNAS, KOLUDROVIC, DOE, ROE, and others not presently known to the Plaintiffs intentionally, and/or with reckless disregard for the right of Plaintiffs to be free from unfounded prosecution, acting under color of state law, ordinances, statutes, custom and usage, prepared and circulated to the public official reports that purported to justify the continuation of the criminal proceedings against the Plaintiffs and that continued to suppress the true nature of the actions of some of the Defendants on December 4, 1969. These reports were all intended by the defendants to falsify and distort the occurrences of the brutal raid of December 4, 1969. The reports included both official statements to the news media and a series of formal proceedings, including an investigation by the Internal Inspections Division of the Chicago Police Department,

an inquest conducted by the Coroner of Cook County into the deaths of Fred Hampton and Mark Clark, the investigation of the premises at 2337 West Monroe and the purported ballistics and scientific analyses performed by the Crime Laboratory of the Chicago Police Department, and the presentation of false charges and testimony to the Cook County Grand Jury, as set forth specifically in Paragraph 69. All these acts were committed with the intent of depriving Plaintiffs of their rights, privileges and immunities under the Constitution and laws of the United States, protected by 42 U.S.C., Section 1983.

74. Some or all of defendants HANRAHAN, JALOVEC, MELTREGER, SOROSKY, MULCHRONE, ERVANIAN, GAOTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, MEADE, KUKOWINSKI, PURTELL, KOLUDROVIC, SADUNAS, JAMES DOE, RICHARD ROE, JOHN DOE, and others not presently known to the Plaintiffs willfully and maliciously furthered the prosecution of Plaintiffs, known to said defendants to be unfounded, with the intent of discriminating against the Plaintiffs because they are members of the black race and because of their political beliefs and associations, in violation of the First and Fourteenth Amendments to the Constitution of the United States, and of 42 U.S.C., Sections 1983 and 1985.

75. As a direct and natural result of these acts of the defendants, the prosecutions of Plaintiffs were continued until May 8, 1970, and each of the Plaintiffs suffered serious injury to his reputation and severe mental anguish.

WHEREFORE PLAINTIFF RONALD SATCHEL, by his next friend CLARA BRIDGES, demands judgment against Defendants HANRAHAN, JALOVEC, MELTREGER, SOROSKY, MULCHRONE, ERVANIAN, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, MEADE, KUKOWINSKI, PURTELL, KOLUDROVIC, SADUNAS, JAMES DOE, RICHARD ROE, JOHN DOE, and others not presently known to him, jointly and severally for compensatory damages in the amount of $200,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $200,000, plus the cost of this action, attorney's fees, and such other relief as to this court seems just, equitable and proper.

WHEREFORE PLAINTIFF DEBORAH JOHNSON demands judgment against Defendants HANRAHAN, JALOVEC, MELTREGER, SOROSKY, MULCHRONE, ERVANIAN, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, MEADE, KUKOWINSKI, PURTELL, KOLUDROVIC, SADUNAS, JAMES DOE, RICHARD ROE, JOHN DOE, and others not presently known to her, jointly and severally for compensatory damages in the amount of $200,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $200,000, plus the cost of this action, attorney's fees, and such other relief as to this court seems just, equitable and proper.

WHEREFORE PLAINTIFF HAROLD BELL demands judgment against Defendants HANRAHAN, JALOVEC, MELTREGER, SOROSKY, MULCHRONE,

ERVANIAN, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, MEADE, KUKOWINSKI, PURTELL, KOLUDROVIC, SADUNAS, JAMES DOE, RICHARD ROE, JOHN DOE, and others not presently known to him, jointly and severally for compensatory damages in the amount of $200,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $200,000, plus the cost of this action, attorney's fees, and such other relief as to this court seems just, equitable and proper.

WHEREFORE PLAINTIFF BRENDA HARRIS demands judgment against Defendants HANRAHAN, JALOVEC, MELTREGER, SOROSKY, MULCHRONE, ERVANIAN, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, MEADE, KUKOWINSKI, PURTELL, KOLUDROVIC, SADUNAS, JAMES DOE, RICHARD ROE, JOHN DOE, and others not presently known to her, jointly and severally for compensatory damages in the amount of $200,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $200,000, plus the cost of this action, attorney's fees, and such other relief as to this court seems just, equitable and proper.

WHEREFORE PLAINTIFF BLAIR ANDERSON, by his next friend BENJAMIN [redacted] HESTER, demands judgment against Defendants HANRAHAN, JALOVEC, MELTREGER, SOROSKY, MULCHRONE, ERVANIAN, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, MEADE, KUKOWINSKI, PURTELL, KOLUDROVIC, SADUNAS, JAMES DOE, RICHARD ROE, JOHN DOE, and others

not presently known to him, jointly and severally for compensatory damages in the amount of $200,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $200,000, plus the cost of this action, attorney's fees, and such other relief as to this court seems just, equitable and proper.

WHEREFORE PLAINTIFF LOUIS TRUBLUCK demands judgment against Defendants HANRAHAN, JALOVEC, MELTREGER, SOROSKY, MULCHRONE, ERVANIAN, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, MEADE, KUKOWINSKI, PURTELL, KOLUDROVIC, SADUNAS, JAMES DOE, RICHARD ROE, JOHN DOE, and others not presently known to him, jointly and severally for compensatory damages in the amount of $200,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $200,000, plus the cost of this action, attorney's fees, and such other relief as to this court seems just, equitable and proper.

COUNT TEN

/Neglect to prevent harm from conspiracy for deprivation of Equal Protection of the Laws by wrongful and malicious prosecution./

76. Plaintiffs allege and reallege paragraphs 1-75 with the same force and effect as if fully set forth herein.

77. Defendants HANRAHAN, JALOVEC, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, DALEY, CONLISK, MULCHRONE, ERVANIAN, MEADE, KUKOWINSKI, SOROSKY, MELTREGER, PURTELL, SADUNAS, KOLUDROVIC, JAMES DOE, RICHARD ROE, JOHN DOE, and others not presently known to the Plaintiffs knew of the conspiracy described in paragraphs 66-69 to deprive Plaintiffs of the Equal Protection of the Laws as guaranteed by the laws and the Fourteenth Amendment to the Constitution of the United States, prior to the execution of said conspiracy and throughout the duration of said conspiracy. These defendants, as officials supervising the persons conducting and continuing the unfounded and malicious prosecutions, and as persons officially responsible for investigations that, if conducted fairly and impartially, would have shown the prosecutions to be unfounded, had the power, authority and responsibility to prevent the committing of these illegal acts against the Plaintiffs, but these defendants neglected and refused to prevent these illegal acts. These illegal acts proximately caused injury to the Plaintiffs in their reputations, by severe mental anguish, and other injuries as set forth in Paragraphs 68 and 70, contrary to the provisions of 42 U.S.C., Section 1986.

WHEREFORE PLAINTIFF RONALD SATCHEL, by his next friend CLARA BRIDGES, demands judgment against Defendants HANRAHAN, DALEY, JALOVEC, MELTREGER, SOROSKY, MULCHRONE, ERVANIAN, GROTH, CONLISK, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, MEADE, KUKOWINSKI,

PURTELL, KOLUDROVIC, SADUNAS, JAMES DOE, RICHARD ROE, JOHN DOE, and others not presently known to him, jointly and severally for compensatory damages in the amount of $200,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $200,000 plus the cost of this action, attorney's fees, and such other relief as to this court seems just, equitable and proper.

WHEREFORE PLAINTIFF DEBORAH JOHNSON demands judgment against Defendants HANRAHAN, JALOVEC, MELTREGER, SOROSKY, MULCHRONE, DALEY, ERVANIAN, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, CONLISK, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, MEADE, KUKOWINSKI, PURTELL, KOLUDROVIC, SADUNAS, JAMES DOE, RICHARD ROE, JOHN DOE, and others not presently known to her, jointly and severally for compensatory damages in the amount of $200,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $200,000 plus the cost of this action, attorney's fees, and such other relief as to this court seems just, equitable and proper.

WHEREFORE PLAINTIFF HAROLD BELL demands judgment against Defendants HANRAHAN, JALOVEC, MELTREGER, SOROSKY, MULCHRONE, DALEY, ERVANIAN, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, CONLISK, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, MEADE, KUKOWINSKI, PURTELL, KOLUDROVIC, SADUNAS, JAMES DOE, RICHARD ROE, JOHN DOE, and others not presently known to him,

jointly and severally for compensatory damages in the amount of $200,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $200,000 plus the cost of this action, attorney's fees, and such other relief as to this court seems just, equitable and proper.

WHEREFORE PLAINTIFF BRENDA HARRIS demands judgment against Defendants HANRAHAN, JALOVEC, MELTREGER, SOROSKY, MULCHRONE, DALEY, ERVANIAN, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, CONLISK, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, MEADE, KUKOWINSKI, PURTELL, KOLUDROVIC, SADUNAS, JAMES DOE, RICHARD ROE, JOHN DOE, and others not presently known to her, jointly and severally for compensatory damages in the amount of $200,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $200,000 plus the cost of this action, attorney's fees, and such other relief as to this court seems just, equitable and proper.

WHEREFORE PLAINTIFF BLAIR ANDERSON, by his next friend BENJAMIN HESTER, demands judgment against Defendants HANRAHAN, DALEY, JALOVEC, MELTREGER, SOROSKY, MULCHRONE, ERVANIAN, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, MEADE, KUKOWINSKI, PURTELL, CONLISK, KOLUDROVIC, SADUNAS, JAMES DOE, RICHARD ROE, JOHN DOE, and others not presently known to him, jointly and severally for compensatory damages in the amount of $200,000, and further demands judgment against said defendants, jointly and severally, for punitive damages

in the amount of $200,000 plus the cost of this action, attorney's fees, and such other relief as to this court seems just, equitable and proper.

WHEREFORE PLAINTIFF LOUIS TRUELUCK demands judgment against Defendants HANRAHAN, JALOVEC, MELTREGER, SOROSKY, MULCHRONE, DALEY, ERVANIAN, GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, CONLISK, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, MEADE, KUKOWINSKI, PURTELL, KOLUDROVIC, SADUNAS, JAMES DOE, RICHARD ROE, JOHN DOE, and others not presently known to him, jointly and severally for compensatory damages in the amount of $200,000, and further demands judgment against said defendants, jointly and severally, for punitive damages in the amount of $200,000, plus the cost of this action, attorney's fees, and such other relief as to this court seems just, equitable and proper.

COUNT ELEVEN

/Negligent deprivation of civil rights by failure of municipal corporation properly to hire, train, and supervise its police employees./

78. Plaintiffs allege and reallege paragraphs 1-77 with the same force and effect as if fully set forth herein.

79. Defendant CITY OF CHICAGO was and still is the statutory public employer of Defendants GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, DALEY, CONLISK, MULCHRONE, ERVANIAN, MEADE, KUKOWINSKI, KOLUDROVIC, SADUNAS, PURTELL, JAMES DOE, RICHARD ROE,

JOHN DOE, and others not presently known to the Plaintiffs.

80. Defendant CITY OF CHICAGO did fail to properly hire, train and supervise the Defendant Police Officers who were at the time of the illegal raid assigned to the Cook County State's Attorney's Office.

81. Defendant CITY OF CHICAGO had consistently failed to discipline officers who had used deadly and excessive force against citizens prior to December 4, 1969. Said failure to so discipline past offenders of the Chicago Police Department was known to the defendants and did give said Defendant police officers license to use excessive and deadly force against the Plaintiffs, without fear of punishment.

82. The raid upon the residence of the Plaintiffs, on the morning of December 4, 1969, by the duly appointed Defendant Chicago Police officers did proximately cause serious injury to the Plaintiffs and did deprive them of their right to full and equal benefit of all laws; as this raid was illegal and performed in a discriminatory and racist manner against the Plaintiffs, as black men and women, contrary to the Fourteenth Amendment of the Constitution of the United States, and contrary to 42 U.S.C., Sections 1981, 1983, and 1988.

83. Defendant CITY OF CHICAGO failed properly to hire, train, and supervise the Defendant Police Officers who were assigned to conduct an examination of the scene of the incident, 2337 West Monroe, assigned to analyze the items of evidence

recovered there, and those officers who were assigned to supervise or conduct the purported investigation of the raid for the Internal Inspections Division of the Chicago Police Department.

84. Defendant CITY OF CHICAGO had, prior to December 4, 1969, consistently failed to discipline officers who had conducted unprofessional and biased examinations of physical evidence, or who had conducted purported investigations for the Internal Inspections Division of the Chicago Police Department with the purpose of suppressing evidence of wrongdoing by police officers against whom complaints had been filed. Said failure to so discipline past offenders in the Crime Laboratory and the Internal Inspections Division of the Chicago Police Department was known to defendants and gave said defendants license to conduct their investigations and examinations with the purpose of furthering the unfounded prosecution of Plaintiffs, without fear of punishment of said defendants.

85. The malicious and unfounded prosecution of Plaintiffs, continuing from December 4, 1969, until May 8, 1970, planned executed, and furthered by the duly appointed defendant police officers named in this count did proximately cause serious injury to the Plaintiffs and did deprive them of their right to full and equal benefit of all laws, as these prosecutions were unfounded and conducted in a discriminatory and racist manner against the Plaintiffs, as black men and women, contrary to the Fourteenth Amendment to the Constitution of the United States

and contrary to the provisions of 42 U.S.C., Sections 1981, 1983, and 1988.

86. Defendant CITY OF CHICAGO'S grossly negligent failure properly to hire, train, and supervise the individual defendants named in Paragraph 79 and Defendant CITY OF CHICAGO'S grossly negligent failure properly to discipline past offenders who had used excessive and deadly force, who had conducted unprofessional and biased examinations of premises and physical evidence, and who had conducted purported investigations for the Internal Inspections Division with the purpose of suppressing evidence of wrongdoing by police officers directly and proximately caused the serious injury of Plaintiffs, in violation of the Constitution and laws of the United States, as alleged in Paragraphs 31-47 and 68-70.

WHEREFORE PLAINTIFF RONALD SATCHEL, by his next friend CLARA BRIDGES, demands judgment against Defendant CITY OF CHICAGO for compensatory damages in the amount of $400,000, plus the cost of this action, attorney's fees, and such other relief as to this court seems just, proper and equitable.

WHEREFORE PLAINTIFF DEBORAH JOHNSON demands judgment against Defendant CITY OF CHICAGO for compensatory damages in the amount of $300,000, plus the cost of this action, attorney's fees, and such other relief as to this court seems just, proper and equitable.

WHEREFORE PLAINTIFF HAROLD BELL demands judgment against Defendant CITY OF CHICAGO for compensatory damages in the amount

$300,000, plus the cost of this action, attorney's fees, and such other relief as to this Court seems just, proper and equitable.

WHEREFORE PLAINTIFF BRENDA HARRIS demands judgment against Defendant CITY OF CHICAGO for compensatory damages in the amount of $400,000, plus the cost of this action, attorney's fees, and such other relief as to this Court seems just, proper and equitable.

WHEREFORE PLAINTIFF BLAIR ANDERSON, by his next friend [redacted] HESTER, demands judgment against Defendant CITY OF CHICAGO for compensatory damages in the amount of $400,000, plus the cost of this action, attorney's fees, and such other relief as to this Court seems just, proper and equitable.

WHEREFORE PLAINTIFF LOUIS TRUELUCK demands judgment against Defendant CITY OF CHICAGO for compensatory damages in the amount of $300,000, plus the cost of this action, attorney's fees, and such other relief as to this Court seems just, proper and equitable.

COUNT TWELVE

/Liability of municipal corporations through respondeat superior for the wrongful conduct of their public employees./

87. Plaintiffs allege and reallege paragraphs 1-86 with the same force and effect as if fully set forth herein.

88. Defendant CITY OF CHICAGO was and is a duly incorporated municipality under the Constitution, laws and statutes of the State of Illinois.

89. Defendant COOK COUNTY, ILLINOIS, is a duly established legislative corporation under the laws, statutes, and Constitution of the State of Illinois.

90. Defendants GROTH, BRODERICK, CARMODY, CISZEWSKI, CORBETT, DAVIS, GORMAN, HARRIS, HOWARD, HUGHES, JONES, JOSEPH, KELLY, MARUSICH, CONLISK, MULCHRONE, ERVANIAN, MEADE, KUKOWINSKI, PURTELL, KOLUDROVIC, SADURAS, JAMES DOE, RICHARD ROE, JOHN DOE, and others not presently known to the Plaintiffs were duly employed officials in the Police Department of the City of Chicago, at all times material to this complaint.

91. Defendant DALEY was the duly elected and duly employed Mayor of the City of Chicago, at all times material to this complaint.

92. Defendants HANRAHAN, JALOVEC, HELTBERGER, SOROSKY, and others not presently known to the Plaintiffs were duly elected and/or appointed officials of Cook County, Illinois, and were in the employment of this County, at all times material to this complaint.

93. At all times material to this complaint, said defendant City and County Officials were acting within the scope of their employment by said City and/or County and were acting as agents and employees thereby. While acting in this capacity, said defendants did commit illegal and wrongful acts as alleged in Paragraphs 1-86, particularly Paragraphs 30-39 and 66-69. These wrongful acts did proximately and directly cause injury

to Plaintiffs, as alleged in Paragraphs 31-47 and 68-70, in violation of rights, privileges and immunities guaranteed under the Constitution and laws of the United States, including 42 U.S.C., Sections 1981, 1983, and 1988. These rights are further protected, through 42 U.S.C., Section 1988, by the law of the State of Illinois, which makes a municipal corporation liable for the wrongful and tortious acts of its employees.

WHEREFORE PLAINTIFF RONALD SATCHEL, by his next friend CLARA BRIDGES, demands judgment against Defendants CITY OF CHICAGO and COOK COUNTY, ILLINOIS, for compensatory damages in the amount of $400,000, plus the cost of this action, attorney's fees, and such other relief as to this court seems just, proper and equitable.

WHEREFORE PLAINTIFF DEBORAH JOHNSON demands judgment against Defendants CITY OF CHICAGO and COOK COUNTY, ILLINOIS, for compensatory damages in the amount of $300,000, plus the cost of this action, attorney's fees, and such other relief as to this court seems just, proper and equitable.

WHEREFORE PLAINTIFF HAROLD BELL demands judgment against Defendants CITY OF CHICAGO and COOK COUNTY, ILLINOIS, for compensatory damages in the amount of $300,000, plus the cost of this action, attorney's fees, and such other relief as to this Court seems just, proper and equitable.

WHEREFORE PLAINTIFF BRENDA HARRIS demands judgment against Defendants CITY OF CHICAGO and COOK COUNTY, ILLINOIS, for compensatory

damages in the amount of $400,000, plus the cost of this action, attorney's fees, and such other relief as to this Court seems just, proper and equitable.

WHEREFORE PLAINTIFF BLAIR ANDERSON, by his next friend BENJAMIN HESTER, demands judgment against Defendants CITY OF CHICAGO and COOK COUNTY, ILLINOIS, for compensatory damages in the amount of $400,000, plus the cost of this action, attorney's fees, and such other relief as to this Court seems just, proper and equitable.

WHEREFORE PLAINTIFF LOUIS TAUELUCK demands judgment against Defendants CITY OF CHICAGO and COOK COUNTY, ILLINOIS, for compensatory damages in the amount of $300,000, plus the cost of this action, attorney's fees, and such other relief as to this Court seems just, proper and equitable.

Respectfully submitted,

Francis E. Andrew

Kermit Coleman

Plaintiff RONALD SATCHEL, by his next friend CLARA BRIDGES; Plaintiff DEBORAH JOHNSON; Plaintiff HAROLD BELL; Plaintiff BLAIR ANDERSON, by his next friend BENJAMIN HESTER; Plaintiff BRENDA HARRIS;

and Plaintiff LOUIS TRUELUCK, each demands trial by jury.

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Kermit Coleman

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